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IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

CASE NO: 34523/17

In the matter between:

AFRIBUSINESS NPC Applicant

and

THE MINISTER OF FINANCE Respondent

NOTICE OF MOTION IN APPLICATION FOR CONDONATION

TAKE NOTICE THAT the respondent will apply at the hearing of this matter for an order in the following terms:

1 The respondent's non-compliance with the time period prescribed for the filing of his answering affidavit in the applicant's notice of motion is condoned.

2 The respondent is granted further or alternative relief.

3 The applicant is to pay the costs of the condonation application in the event that it opposes it.

TAKE NOTICE FURTHER THAT the respondent will rely on the contents of the affidavit of Thembelihle Nhlanzi, in support of the condonation application.

TAKE NOTICE FURTHER THAT in the event that the applicant intends to oppose the condonation application it should deliver its answering affidavit together with its replying affidavit in the main application.

SIGNED AT PRETORIA on this3rd day of **AUGUST 2017**.

THE STATE ATTORNEY
Attorneys for the respondent
Manaka Heights
8th Floor
167 Thabo Sehume Street
Pretoria
REF: 3793/17/Z32

TO: THE REGISTRAR
OF THE ABOVE HONOURABLE COURT
PRETORIA

AND TO: **HURTER SPIES ATTORNEYS**
Attorneys for the applicant
Cnr Malan and Union Avenue
Afriforum Building
Kloofsig
Centurion
Tel: 012 941 9239
Fax: 012 644 1997

SERVED BY SHERIFF

3.8.17
11:32

Ontvang Sonder Benadeling
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Hurter Spies Ing / Inc

IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

CASE NO: 34523/17

In the matter between:

AFRIBUSINESS NPC Applicant

And

THE MINISTER OF FINANCE Respondent

AFFIDAVIT IN SUPPORT OF CONDONATION

I, the undersigned,

THEMBELIHLE NHLANZI

do hereby make oath and state that:

1. I am an attorney employed in the office of the State Attorney, Pretoria. I am the attorney of record for the respondent the Minister of Finance (**"the Minister"**), in this matter. I am duly authorised to bring this application and to depose to this affidavit in support of it.

T.M CJ

To the best of my knowledge and belief, the facts to which I depose herein are both true and correct, and they are within my personal knowledge unless I state otherwise, or unless the contrary is apparent from the context.

THE NATURE AND PURPOSE OF THIS AFFIDAVIT

2. The application with which this affidavit is concerned is an attack on the legality of regulations, recently promulgated under the PPPFA, which are concerned with public procurement (**"the 2017 Regulations"** or **"the Regulations"**).

3. I have read Afribusiness's founding affidavit in this application, as well as an unsigned version of the Minister's affidavit. I do not address the merits of the application in this affidavit.

4. In this affidavit, I shall instead ask that this Court condone the late filing of the Minister's answering affidavit in the application. The reason why I depose to this affidavit separately is because I am the one who has personal knowledge of the relevant facts.

5. I should emphasise that, although the Minister's answering affidavit is late, the Minister did not simply allow the time period for filing the affidavit to pass by. Far from it. The reason that this condonation application is required is because the Minister, having realised that the consideration of the record in the application would take it beyond the required time period contacted Afribusiness and sought to agree to an extension. Afribusiness refused, and instead required the Minister to apply to this Court for condonation. I shall set out the reasons why I humbly pray that condonation be granted immediately below. I shall thereafter set out my conclusion and prayer.

T.M

CONDONATION FOR THE LATE FILING OF THE PRESENT AFFIDAVIT

6. I mentioned above that the main application is one asking this Court *inter alia* to review the validity of a law-making process. I am advised that litigants will ordinarily bring such applications in terms of Rule 53 of the Uniform Rules of Court (**"the Rules"**). An application in terms of Rule 53 would require the Minister to furnish Afribusiness with the record of his decision to implement the 2017 Regulations, after which Afribusiness would be afforded an opportunity to supplement its founding affidavit.

7. What Afribusiness has done in the present application is to bring its review in terms of Rule 6 of the Rules instead. Whilst this procedure permits the application to be determined more expeditiously, it does not absolve the Minister of the duty, in order to make full disclosure to this Court, that the record of the decision to bring the Regulations into force be seriously considered.

8. The present application was served at the offices of the State Attorney, Pretoria on 19 May 2017. It unfortunately did not find its way to the relevant officials within Treasury until weeks later, when instructions were sought from the Minister as to whether he wished to oppose the application. However, once this happened, Treasury arranged for the instruction of counsel, and for the necessary prior consultations with counsel, immediately.

9. Treasury had briefed and met with counsel by 29 June 2017. It immediately began collating the record and, on 4 July 2017, when it became apparent that the finalisation of an answering affidavit within the required time period would be impossible, I contacted Afribusiness in order to agree to an extension of the time period for filing. My email confirming as much is attached hereto marked **"TN1"**.

T.M

 CO

10. Afribusiness refused the Minister's request the next day. It was refused without reasons. I attach Afribusiness's email in this regard marked **"TN2"**.

11. Given the refusal, Treasury pressed forward with the preparation of the record with all possible speed. The vast majority of what constitutes a voluminous record of its decision was collated by 5 July 2017, and immediately provided the documents to counsel. Counsel was furnished with the remainder of the record by 14 July 2017. After receipt and consideration of the documents, counsel proceeded to draft this answering affidavit as soon as possible.

12. This answering affidavit was due to be filed on 5 July 2017. I file this affidavit almost 21 days later. I therefore accept that it has been filed outside of the required time period. I am however advised that this Court has the discretion to condone the late filing of this affidavit where the Minister furnishes this Court with a full explanation, and is able to persuade the Court that there is good cause for it to do so.

13. I am advised that the factors to which this Court will have regard in deciding whether or not condonation should be granted are trite. Having regard to the latter principles, I respectfully submit that –

    13.1. the extent of the delay in filing this answering affidavit, which I accept is significant, is not egregious;

    13.2. this is particularly so given the causes of the delay, set out above, which include the fact that Treasury was required to collate and consider a voluminous record of decision outside of the time periods permitted for it to do so under Rule 53;

T.M.

13.3. I have explained the delay in full, and I respectfully submit that I have furnished this Court with a reasonable explanation, which does not arise from dilatory conduct on the part of either the Minister or Treasury;

13.4. the issues raised in the present application are clearly important, affecting, as they do, the rules of procurement that are applied throughout the country;

13.5. the effect of the delay on the administration of justice, especially when the importance of the regulation is considered, is negligible;

13.6. the Minister's defence of the Regulations has reasonable prospects of success on the merits, alternatively there are reasonable prospects that this Court will find that the appropriate remedy is for the Regulations to be suspended;

13.7. the application concerns a matter of public importance beyond the interests of the applicant and it would not be in the interests of justice to determine it without regard to the answering affidavit filed on the Minister's behalf;

13.8. the applicant will suffer no prejudice if condonation is granted as it would have sufficient opportunity to reply to the answering affidavit.

CONCLUSION AND PRAYER

14. I apologise to the Court for the delay in the filing of this affidavit. For the reasons I have set out above, I humbly pray that condonation be granted, and that costs be granted in respect of the condonation application in the event only of opposition.

T.M

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DEPONENT

The deponent has acknowledged that she knows and understands the contents of this affidavit, which was signed and sworn before me at PRETORIA on this the 03 day of **AUGUST 2017**, the regulations contained in Government Notice no. R1258 of 21 July 1972, as amended, and Government Notice no. R1648 of 19 August 1997, as amended, having been complied with.

DIRECTOR OF PUBLIC PROSECUTIONS
PRIVATE BAG X9000
03 AUG 2017
NORTH GAUTENG: PRETORIA

COMMISSIONER OF OATHS

Full Names: CLERK JOHANNES STONE

Capacity: ADMIN CLERK

Address: 28 CHURCH SQUARE
PRETORIA
0002

TN 1

744

Nhlanzi Thembelihle

From: Nhlanzi Thembelihle
Sent: 04 July 2017 09:48 AM
To: celeste@hurterspies.co.za
Subject: AFRI BUSINESS

Good day Celeste

Our telephone conversation refers.

We confirm having requested an extension to file our Answering Affidavit by 24 July 2017. We confirm further that you will contact Mr Kruger who is not in the office and revert.

Regards

Ms Thembelihle Nhlanzi
Department of Justice & Constitutional Development
Office of the State Attorney Pretoria
SALU Building
255 Francis Baard Street
Pretoria
Tel :012 309 1575/1504
Fax to e mail: 0866293073
Cell:063 686 8413

T.N 01

TN 2

Nhlanzi Thembelihle

745

From: marjorie@hurterspies.co.za
Sent: 05 July 2017 09:05 AM
To: Nhlanzi Thembelihle
Cc: tertius@hurterspies.co.za
Subject: RE: AFRI BUSINESS

Dear Ms. Nhlanzi,

Your E-mail below refers.

It is our instruction that a formal application for condonation will have to filed together with your answering affidavit.

Regards,

Marjorie van Schalkwyk
Kandidaatprokureur / Candidate Attorney

Tel: 012 941 9239 / 012 664 0708 • **Sel/Cell:** 072 213 9676
Faks/Fax: 012 644 1997 • **E-pos/E-mail:** marjorie@hurterspies.co.za
Posadres/Postal Address: Posbus/PO Box 14505, Lyttelton, 0140
Adres/Address: Eerste Vloer / First Floor, AfriForum Gebou / Building,
Hoek van / corner of DF Malan- and Unionlaan / Avenue, Kloofsig, Centurion

Hurter Spies inc
prokureurs • attorneys



From: Nhlanzi Thembelihle [mailto:TNhlanzi@justice.gov.za]
Sent: 04 July 2017 09:48 AM
To: celeste@hurterspies.co.za
Subject: AFRI BUSINESS

Good day Celeste

Our telephone conversation refers.

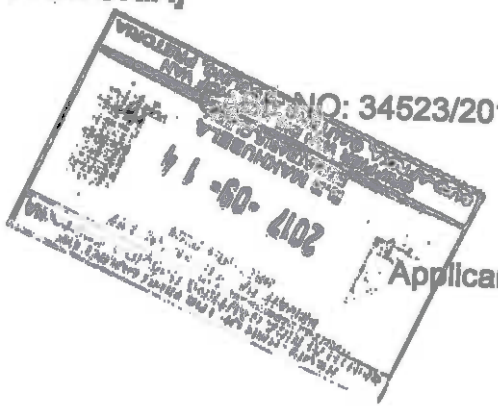
We confirm having requested an extension to file our Answering Affidavit by 24 July 2017. We confirm further that you will contact Mr Kruger who is not in the office and revert.

Regards

Ms Thembelihle Nhlanzi
Department of Justice & Constitutional Development
Office of the State Attorney Pretoria
SALU Building

TN 90

IN THE HIGH COURT OF SOUTH AFRICA
[GAUTENG DIVISION, PRETORIA]



CASE NO: 34523/2017

In the matter between:

AFRIBUSINESS Applicant

and

THE MINISTER OF FINANCE Respondent

FILING NOTICE

DOCUMENTS: **APPLICANT'S REPLYING AFFIDAVIT**

ON ROLL: **NOT YET ALLOCATED**

FILED BY: **HURTER SPIES INC**
Attorneys for the Respondent
First Floor, AfriForum Building
Cnr Union and DF Malan Drive
Kloofsig, Centurion
Tel: (012) 664 0708
Fax: (012) 644 1997
EMAIL: tertius@hurterspies.co.za
REF: T KRUGER/AS0024

TO: **THE REGISTRAR OF THE ABOVE HONOURABLE COURT**
Pretoria

AND TO: **THE STATE ATTORNEY**
RESPONDENT'S ATTORNEY
SALU BUILDING, GROUND FLOOR
CNR THABO SEHUME AND
FRANCIS BAARD STREET
PRETORIA
TEL: 012 309 1547
FAX: 086 400 2863
DOCEX: 298
REF: 3793/17/Z32

Received Copy Hereof:
Date: _____
Name: _____
Signature: _____

STATE ATTORNEY
PRIVATE BAG/PRIVAATSAK X91
2017 -09- 14
PRETORIA 0001
STAATSPROKUREUR

08h45

IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

CASE NUMBER: 34523/2017

In the matter between:

AFRIBUSINESS Applicant

and

THE MINISTER OF FINANCE Respondent

REPLYING AFFIDAVIT

I, the undersigned,

ARMAND GIDEON GREYLING

do hereby make oath and state:

1.

1.1 I am an adult male, employed as Law- and Policy Analyst with the Applicant, and I already deposed to the Founding Affidavit in this application. I am duly authorised to also depose to this Replying Affidavit on behalf of Applicant.

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1.2 The facts herein referred to fall within my own personal knowledge, except where otherwise indicated, and are true and correct.

1.3 I have perused the Answering Affidavit, with annexures thereto, by the Respondent and wish to reply thereto in what follows:

2.

Applicant's grounds for review as sought in the Notice of Motion are set out in the Founding Affidavit, and are not repeated herein. I humbly submit that no attempt has been made by the Respondent to defend himself against the clear indication that he acted *ultra vires* the powers conferred upon him in terms of the Preferential Procurement Policy Framework Act, No 5 of 2000 ("*the PPPFA*") when he promulgated the Preferential Procurement Regulations 2017 ("*the 2017 Regulations*"). At best for the Respondent, his denial that he acted *ultra vires* comprises a bare denial, without foundation. Full legal argument in this regard will be presented to the Honourable Court when the application is heard. Before traversing the various paragraphs of the Answering Affidavit, insofar as reply is required, I mention the following:

2.1 Although the locus standi of Applicant to apply for the relief set out in the Notice of Motion is not disputed, the deponent of the Answering Affidavit attempts to discredit Applicant by referring to it as "*the progeny of AfriForum, which in turn is the progeny of Solidarity*" and further by insinuating that Applicant attempts to advance "*narrow parochial or racially-based interests*" with a "*political agenda, with hidden intentions and objectives*". It is further alleged that Applicant represents entities "*which choose to ignore the*

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legitimate national imperatives affording opportunities to black people, woman, disabled people and small businesses". The averments and insinuations are uncalled for, and I humbly submit that the Respondent should rather have addressed the pertinent substance of the application by Applicant, than to attack Applicant and its members. For purposes of clarity I reiterate that Applicant is a non-profit company established by senior business people to act as business-rights watchdog, under circumstances when the business community in South Africa was and has been exposed to a series of diverse political, social and economic policies. Applicant supports constitutional imperatives and values, but believes that organised communities can and must play an active and changing role in the country. Applicant aims to mobilise business people in a positive manner to ensure a healthy business environment. A successful business environment needs a steady, fair and predictable environment. Membership of Applicant is not limited to the Afrikaans community, and English members actively support Applicant's objectives.

2.2 A perusal of the Answering Affidavit leaves no doubt that the 2017 Regulations were intended to address transformation and Black Economic Empowerment within the South African economic environment. In pursuing the aforegoing objective, the Respondent with respect lost sight of:

2.2.1 the fact that he actually pursued the objectives of the Broad-Based Black Economic Empowerment Act, No 53 of 2003 (*"B-BBEE Act"*), which already established a legislative framework for the promotion of Black Economic Empowerment, and in

terms of which Regulations were issued as recently as 6 June 2016;

2.2.2 the objectives of the PPPFA, introduced by the Constitution, requiring that Government entities engaging in procurement of goods or services must act in accordance with an equitable, transparent, fair, competitive and cost-effective process.

2.3 Respondent's attitude towards the Socio-Economic Impact Assessment System Unit ("*SEIAS*") Guidelines is with respect astounding. Notwithstanding the fact that those Guidelines provide for socio-economic impact assessments, before the adoption of legislation and regulations, and notwithstanding the unquestioned impact the 2017 Regulations will have on the economy of South Africa, as well as the fact that the Guidelines comprise the implementation of a Cabinet decision, the Guidelines are simply brushed aside and ignored because they are "*mere Guidelines, and not binding requirements of law*". The references to SEIAS by Respondent confirm with respect that no attempt was made to act in accordance therewith, which fact reflects upon the reasonableness, fairness, transparency and rationality of the issue of the 2017 Regulations.

2.4 The deponent of the Answering Affidavit regularly falls into repetition, argument and irrelevant dissertations insofar as the relief applied for by Applicant is concerned. I consequently intend to deal with only those facts and averments of the Answering Affidavit which are pertinent for the determination of the relief applied for by Applicant:

3.

AD PARAGRAPS 1, 2 AND 3 THEREOF:

Except for indicating that all facts and legal submissions referred to by the deponent of the Answering Affidavit are not correct, I do not have further comment to these paragraphs. The facts and legal submissions which are not correct appear from the exposition in the Founding Affidavit and in this Affidavit.

4.

AD PARAGRAPH 4 THEREOF:

The deponent distorts the essence of the application by Applicant, by stating that Applicant contends that the 2017 Regulations are primarily being unfairly discriminatory in favour of only black people. On the contrary, Applicant first and foremost contends that the 2017 Regulations are in conflict with the PPPFA, and that Respondent therefore acted *ultra vires* powers conferred upon him in terms of the PPPFA.

5.

AD PARAGRAPH 5 THEREOF:

The reference to Applicant's "*sense of victimhood*" is uncalled for. Applicant :

5.1 acts in consonance with its members' constitutional rights to freely trade in South Africa, and

5.2 Applicant is an independent legal entity, serving the business community in totality, and not only a part thereof. Applicant was incorporated by

concerned businessmen, and the deponent of the Answering Affidavit was ill-advised to refer to Applicant as the "*progeny*" of AfriForum and/or Solidarity.

6.

AD PARAGRAPH 6 THEREOF:

Applicant contends that the 2017 Regulations will in particular have the effect to benefit a small black elite group, at the expense of the public at large, because of the escalation of costs to be paid by State Organs, in many instances, for inferior services or goods to be rendered. It is not a question of transformation. Applicant, and its members, support transformation, but not at the cost of the majority of citizens, primarily black people, who must bear the brunt to benefit a few selected beneficiaries. It is not a question of white against black. It is a question of transparency and fairness against all.

7.

AD PARAGRAPH 7 THEREOF:

When the legislature enacted the Constitution and the PPPFA, the discretions relating to procurement were wisely limited. Respondent simply acted outside those limitations when the 2017 Regulations were issued. The intention of the legislature was never to give State Organs unlimited discretions relating to the suppliers they choose to contract with. The effect of the 2017 Regulations is exactly that State Organs may now, before application of any point system which provides for the advancement of

Interests of previously disadvantaged people, exclude the majority of competent service providers to tender for State contracts, to the benefit of a selected few.

8.

AD PARAGRAPHS 8, 9 AND 10 THEREOF:

Applicant appreciates that Government is free to pursue legitimate policy preferences, but contend that those preferences should be within the ambit allowed by the laws of the country. The 2017 Regulations are not competitive and cost-effective at all. The 2017 Regulations give preference to categories not in accordance with the PPPFA, but in conflict with that law, and are consequently not *intra vires*.

9.

AD PARAGRAPH 11 THEREOF:

It is untrue that members of Applicant could profit under the 2011 Regulations from contracts paid for by the public purse without lifting a finger towards transformation. The transformation incentives allowed for by the PPPFA as part of the point system applied, and entities which had not complied with transformation goals could hardly compete with entities which obtained, depending upon the lower or higher level of contract, 20 or 10 points, before price was taken into account. This enhanced transformation, cost-effectives and competition. The 2017 Regulations however made it impossible for competitors on lower B-BBEE levels, to compete with entities and suppliers on a higher level of B-BBEE, notwithstanding ability, cost-effectiveness and functionality. Applicant contends that such curtailment of competition is in conflict with the PPPFA.

10.

AD PARAGRASPH 12 THEREOF:

10.1 The Constitution does indeed entrust matters of policy to the executive branch of Government. Laws, however, are the prerogative of the legislature, and should be adhered to by the executive branch of Government. Respondent, in exercising powers conferred upon him as part of the executive branch of Government, overstepped to the legislative branch of Government, and promulgated Regulations in conflict with prevailing laws. For that very reason the administrative action by Respondent should be reviewed and set aside.

10.2 As indicated above, the fact that Respondent simply brushed aside the SEIAS Guidelines, is evidence of the irrational, unreasonable and unfair decision taken by Respondent when the Regulations were promulgated.

11.

AD PARAGRAPH 13 THEREOF:

11.1 The discretion allowed to State Organs to apply pre-qualification criteria, even if it should not be exercised in every instance of procurement, is in conflict with the PPPFA. It should however be mentioned that, similar as the specific goals mentioned in Section 2(d) of the PPPFA, which were not by the law itself restricted to allocation of points to a supplier by reason of its B-BBEE rating, but which were in practice narrowed-down to apply only

to the B-BBEE status level of the supplier (I refer in this regard to Annexure "A9" to the Founding Affidavit, more in particular paragraph 4.2 reading:

> *"Bidders who do not submit B-BBEE Status Level Verification Certificate or are non-compliant contributors to B-BBEE do not qualify for preference points for B-BBEE but should not be disqualified from the bidding process. They will score points out of 90 or 80 for price only and zero (0) points out of 10 or 20 for B-BBEE"*),

pre-qualification criteria will eventually also be narrowed-down to B-BBEE compliance. In this regard I refer to the following tenders invited after the commencement of the 2017 Regulations, all with B-BBEE pre-qualification criteria:

11.1.1 I annex as **ANNEXURE "A11"** hereto an Invitation to Apply to be listed on the Accredited Professional Service Provider Panel of the Mandela Bay Development Agency, directed at professionals comprising architects, civil engineers, structural engineers, mechanical engineers, electrical engineers, landscape architects, environmental specialists, traffic engineers, land surveyors, health and safety practitioners, heritage practitioners, project managers, urban and regional planners, estimators, quantity surveyors, property developers, economists, market researchers, social facilitation/public participation practitioners and property valuers. The objective of

the invitation is to establish a panel of accredited professional service providers in relation to procurement processes to services which may be required by the Mandela Bay Development Agency. Pre-qualification criteria are set out in paragraph 5.1 as follows:

"5.1 This invitation is subject to pre-qualifying criteria and the condition that any Applicant must-

5.1.1 hold a level One, Two or Three B-BBEE status level of contributor; or

5.1.2 be:

5.1.2.1 an EME having an Enhanced B-BBEE recognition level for an Exempted Micro-Enterprise of a Level One Contributor (an EME which is 100 % owned by black people) or a Level Two Contributor (an EME which is at least 51 % owned by black people); or

5.1.2.2 a QSE having an Enhanced B-BBEE recognition level for a Qualifying Small Enterprise of a Level One Contributor (a QSE which is 100 % owned by black people)

or a Level Two Contributor (a QSE which is at least 51 % owned by black people)."

11.1.2 I attach an excerpt from the Government Tender Bulleton, 28 July 2017 as **ANNEXURE "A12"**, and refer in particular to Tender Number CPT003/17 and CPT004/17 for the appointment of respectively an architect and a quantity surveyor in respect of repairs and renovation to the Magistrates Office, Stellenbosch, issued by the Western Cape-Department of Public Works. In both instances the pre-qualifications required are:

> "*Only bidders with a BBBEE Level of 1 and 2 and/or EME or QSE can tender.*"

I point out that in terms of the latest B-BBEE Codes, as per the Department of Trade and Industry, only black owned entities qualify for a B-BBEE Level of 1 and 2.

11.1.3 I attach as **ANNEXURE "A13"** a TForm 1 reflecting a tender invited by the National Department of Public Works, relating to the Eastern Cape for maintenance on civil, electrical and structural elements of the Tyefu Police Station and official quarters, the pre-qualification criteria of which are a minimum B-BBEE status level of contributor, Level 1 or 2, or an EME or QSE.

11.1.4 I attach as **ANNEXURE "A14"** a "Tender Notice and Invitation to Tender" for construction of pedestrian facilities on the National route into section 25 between Umlaas Canal (KM4.0) and Wandsbeck road (KM19.5) issued by the South African National Roads Agency Limited, in terms of which only tenderers who are BBBEE compliant and are rated inline with the DTI Codes and have a B-BBEE contributor status Level of One, Two, Three and Four, are eligible to tender.

11.1.5 I further attach as **ANNEXURE "A15"** a "Tender Notice and Invitation to Tender" issued by the Elundini Local Municipality for a NEC3 Engineering and Construction Framework contract for the services of a management contract for the Mount Fletcher Infrastructure program for 3 years, with pre-qualification criteria *inter alia* "*Only B-BBBEE* (sic) *status leve* (sic) *Five or higher, subcontract minimum 30 % to EME or QSE*".

I further annexe as **ANNEXURE "A16"** an excerpt from the Code of Good Practice on Black Economic Empowerment, as amended, published under General Notice 408 in Government Gazette 38766 on 6 May 2015, reflecting the most recent recalibration of B-BBEE levels.

11.2 From the aforegoing I humbly submit that a tendency of State Organs to simply make pre-qualification criteria applicable to tenders in general, cannot be disputed. It follows, and I refer in particular to the wide range of professionals covered by the invitation reflected in **ANNEXURE "A11"**, that

the pre-qualification criteria relating to B-BBEE are applied without an independent exercise of a discretion by the relevant State Organs.

11.3 Apart from the aforegoing I persist in the contentions set out in the Founding Affidavit.

12.

AD PARAGRAPHS 14 AND 15 THEREOF:

I take note of the content of these paragraphs and persist with the contentions made in the Founding Affidavit.

13.

AD PARAGRAPHS 16, 17 AND 18 THEREOF:

13.1 It is conspicuous that B-BBEE objectives, although same are covered by Section 217(2)(b) of the Constitution, do not form part of the 5 key principles relating to procurement of goods or services.

13.2 Functionality is surely an objective criterion which may in terms of paragraph 2(1)(f) of the PPPFA justify the award of a tender to a tenderer without the highest points scored in terms of the preference point system.

13.3 I deny that the PPPFA permits Organs of State to follow a policy they themselves select. Procurement must be affected within the framework of the PPPFA and the Constitution.

14.

AD PARAGRAPH 19 THEREOF:

I indicated above that the application of the points system, *inter alia* because of the interpretation by the National Treasury as set out in their Implementation Guide, limited the 10 and 20 points of respectively high value and low level contracts allocated to specific goals, to preference premised upon B-BBEE ratings of suppliers

15.

AD PARAGRAPH 20 THEREOF:

It is admitted that the Minister is empowered to make Regulations in terms of the PPPFA, which Regulations must be within the legal framework of South African laws. Insofar as the 2017 Regulations are *ultra vires*, as indicated in the Founding Affidavit, I deny that same are authorised by the PPPFA.

16.

AD PARAGRAPHS 21, 22, 23, 24 AND 25 THEREOF:

It is admitted that "*functionality*" served to act as a "*gatekeeper*" or "*threshold requirement*" to an evaluation in terms of preference points under the PPPFA. It is however incomprehensible that State Organs have been allowed a discretion to evaluate tenders upon functionality, or not. The implication is that some tenders could be evaluated with the "*gatekeeper*" or "*threshold requirement*" absent.

AD PARAGRAPHS 26, 27 AND 28 THEREOF:

17.1 I dealt with the changes in the 2017 Regulations in the Founding Affidavit and elaborated upon the reasons why same are *ultra vires* the PPPFA and the Constitution, and indicated that they are not fair, transparent, and cost-effective. In this regard I revert only to the indication that EME's and QSE's qualify for subcontracting, although black people need not hold any shareholding therein. In this regard I point out:

17.1.1 In terms of the Code of Good Practice on Black Economic Empowerment referred to above, any enterprise with an annual total revenue of R10 000 000-00 or less qualifies as an EME, which is deemed to have a B-BBEE status of Level 4 contributor in terms of Section 4.2. Section 4.3 however provides for enhanced B-BBEE recognition for 100 % black owned and 51 % black owned EME's. An EME is further required to confirm its level of black ownership in a sworn affidavit.

17.1.2 In terms of the above Code a QSE must comply with all elements of B-BBEE for the purpose of measurement in terms of Section 5.2, and in terms of Section 5.3 provision is made for enhanced B-BBEE recognition of QSE's which are 100 % and 51 % black owned.

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17.2 The B-BBEE level of EME's and QSE's is therefore very relevant, and such entities, which do not comply with B-BBEE levels set as pre-qualification criteria, may be excluded from State tenders, as evinced by **ANNEXURE "A11"**.

18.

AD PARAGRAPHS 29 AND 30 THEREOF:

18.1 "*Inclusive participation in Government Procurement Opportunities*" is surely but the counter pole of exclusion of suppliers not included in the process. I humbly submit that there cannot be any question that Regulations 4 and 9 of the 2017 Regulations are predominantly exclusive to people who do not fall within the definition of "*black people*" in terms of the B-BBEE Act. The definition reads:

> *"Black people is a general term which means Africans, Coloureds and Indians-*
>
> *(a) Who are citizens of the Republic of South Africa by birth or decent; or*
>
> *(b) Who became citizens of the Republic of South Africa by naturalisation-*
>
> *(i) Before 27 April 1994; or*
>
> (ii) *On or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date;"*

18.2 The purpose of the 2017 Regulations "to harmonise the B-BBEE Act and related legislation with Government policy" confirms my contention above that the objectives of the PPPFA were brushed aside to further the objectives of the B-BBEE Act. B-BBEE Regulations were published in the Government Gazette of 6 June 2016, providing for the administration and implementation of the B-BBEE Act, and the Respondent should not have resorted to the furtherance of the objectives under that Act, at the cost of the objectives of the PPPFA.

19.

AD PARAGRAPH 31 THEREOF:

The averment that Government has identified public procurement "*as a tool to leverage sosio-economic redress and transformation*":

19.1 appears to be totally unconvincing, in view of the fact that the sosio-economic impact of policy initiatives and regulations to be assessed in terms of the SEIAS Guidelines, was totally ignored;

and

19.2 again confirms that public procurement was abused for an ulterior purpose, transformation, at the cost of the key principles of public procurement.

AD PARAGRAPHS 32, 33, 34, 35, 36 AND 37 THEREOF:

20.1 The content of these paragraphs confirms that B-BBEE considerations were the predominant objective which resulted in the 2017 Regulations. That should not have been the case.

20.2 The PPPFA provides for the preference point system to facilitate contracting by persons historically disadvantaged on the basis of race, gender and disability, according to the tenor thereof. These paragraphs illustrate that the "*task team*" yielded to opinions that the legislature should have allowed for further measures to assist previously disadvantaged persons to obtain State contracts. These opinions were simply in conflict with the stipulations of the PPPFA and, whether meritorious or not, the Respondent did not have the power to eventually promulgate the 2017 Regulations in terms of the PPPFA.

20.3 It is conspicuous that one of the complaints annexed to the Founding Affidavit as part of Annexure "DM4", is aimed at the preference point system being restrictive to an extent that Petro SA lost its ability to operate on commercial principles. The references to the preference point system confirms my contention above that the 20 and 10 points allocated by the PPPFA to specific goals, depending upon the value of a contract, were reduced to the B-BBEE scoring of a tenderer. "*The 80/20 and 90/10 points scoring system prescribes that price and BBBEE are the only criteria for adjudicating bids and tenders, once those bids or tenders meet minimum*

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requirements." Criticism against the preference point system in terms of the 2011 Regulations is formulated as follows:

> "*Implementing this regulatory prescript would effectively put the company out of business, in that it would most likely be in a loss making position with every purchase. Regard being had to the numbers involved, there is a concern that suppliers and competitors may set up trading vehicles with BBBEE credentials to take advantage of the 'windfall profits', which could not have been the intention of the National Treasury.*"

I submit that it cannot be gainsaid that the same criticism applies to the pre-qualification criteria now allowed in terms of the 2017 Regulations.

21.

AD PARAGRAPH 38 THEREOF:

I humbly submit that the sosio-economic position in South Africa cannot be compared with the sosio-economic positions of countries of the First World. The previously marginalised groups in Canada, Australia and the USA are all minorities, and procurement measures favouring those groups can never have the sosio-economic impact which similar measures may have in South Africa. It is of significance that the task team confirmed that: "*South Africa opted for preferential point system at evaluation and award of the bid based on the broader South African legislative framework.*" It would have been more correct to conclude that the South African legislature opted for a preferential point system. Should there be an amendment to

the system opted for by the legislature, it is for the legislature, and not the executive, to effect such amendment.

22.

AD PARAGRAPHS 39 AND 40 THEREOF:

The ambit of the legal framework in terms of the PPPFA and the Constitution was surely not considered by the task team when pre-qualification criteria were considered. The very pertinent defect relating to pre-qualification criteria is that there are not enough suppliers within the "*inclusive*" group which may be favoured to insure healthy competition. A few black elite entities therefore benefit from the pre-qualification criteria, and with proper competition excluded, inferior services and goods are procured by State Organs at inflated prices.

23.

AD PARAGRAPHS 41, 42 AND 43 THEREOF:

I have repeatedly dealt with the unacceptability of the contentions made in these paragraphs, and do not repeat myself but to reiterate that race, gender or disability, on a proper construction of Section 2(1) of the PPPFA, do not qualify as objective criteria envisaged in subsection 2(1)(f).

24.

AD PARAGRAPHS 44, 45 AND 46 THEREOF:

There is no explanation why the minimum period for public comment allowed by PAJA, was initially allowed, notwithstanding the undisputed serious implications which the

2017 Regulations have for the business community. Moreover a "*retrospective*" extension of time is of no significance, because of the lack of any certainty of an extension during the period of retrospectivity. The extension for further comment during the period 2 September 2016, (when notice of the extension was given), to 23 September 2016 did not even comply with the prescribed minimum period for comment and was of no significance, as appears from the responses received after 2 September 2016:

24.1 The table reflected in paragraph 47 of the Answering Affidavit reflects only one response after 2 September 2016; and

24.2 the list of submissions annexed as Annexure "DM7" to the Answering Affidavit, reflects three responses after 2 September 2016.

25.

AD PARAGRAPH 47, 48 AND 49 THEREOF:

25.1 Responses against pre-qualification criteria, with an indication that such criteria are in conflict with the PPPFA are glaring. Equally glaring is *inter alia* the response by Treasury reflected in the table forming part of paragraph 48 reading:

> "*Rejected: Pre-qualification happens even prior to evaluation on 80/20 or 90/10 point system.*"

25.2 The resolution by National Treasury at page 285 of the paginated papers reading: "*The aim of the regulations is to extend the preference scheme*

beyond the preference points to empower designated sectors including SMMEs, Youth and Co-operatives" further confirms with respect the violation of powers by Respondent when he added pre-qualification criteria not provided for in the PPPFA.

25.3 The call for functionality to be taken into account in the award of State contracts runs like a silver thread through the comments reflected in Annexure "DM8" to the Answering Affidavit.

25.4 Apart from the aforegoing, according to advice, the Respondent should not have annexed a document comprising 469 pages, without specific reference to those parts upon which Respondent relies. Applicant will address this aspect in legal argument.

26.

AD PARAGRAPHS 50, 51, 52, 53, 54, 55, 56, 57, 58 AND 59 THEREOF:

The deponent of the Answering Affidavit falls into repetition, and I have already dealt with the aspects mentioned herein.

27.

AD PARAGRAPHS 60, 61, 62, 63, 64 AND 65 THEREOF:

I submit that there is with respect no reason for the suspension of any order of invalidity of the 2017 Regulations. If Applicant is successful with the relief claimed in the Notice of Motion, the effect will be that the 2011 Regulations will be revived. The 2011 Regulations, but for the criticism relating to functionality as a qualification criterium,

adequately provided for procurement by State Organs, and there is no reason why those Regulations should not prevail pending an attempt by Respondent to remedy defects in the 2017 Regulations.

28.

AD PARAGRAPHS 66, 67 AND 68 THEREOF:

Apart from indicating that I have already addressed the deponent of the Answering Affidavit's attempt to avoid true issues relating to the invalidity of the 2017 Regulations by implicating Applicant as a disreputable entity with a political agenda (which is emphatically denied), these paragraphs do not require further reply.

29.

AD PARAGRAPHS 69, 70, 71, 72 AND 73 THEREOF:

These paragraphs similarly do not require reply. Applicant's members merely require that constitutional values and principles be adhered to, and that their business opportunities are not restricted by Regulations in conflict with very particular laws enacted by the legislature.

30.

AD PARAGRAPHS 74 AND 75 THEREOF:

I have dealt with the procedural unfairness occasioned by Respondent not giving adequate time to insure meaningful public participation. The comments received during the limited commentary period indicate with respect the need for a longer period for public comment.

31.

AD PARAGRAPH 76 THEREOF:

The IRR, known for its fearless opposition of the Apartheid Regime, was established in 1929, in a previous century when neither AfriForum nor Afri Business as entities existed, or were contemplated. I deny that AfriForum is the "*parent*" organisation of Applicant. Applicant was established in its own right with its own objectives separate from any objectives of AfriForum. I do not know whether AfriForum is a donor of IRR, and contends that it is totally irrelevant for purposes of the present application. Respondent's attempt to proverbially "*play the man, and not the ball*" is glaring.

32.

AD PARAGRAPHS 77, 78 AND 79 THEREOF:

I already indicated that it is incomprehensible how Respondent expected the submission of comments "*retrospectively*" when the date for comment was extended retrospectively.

33.

AD PARAGRAPHS 80, 81 AND 82 THEREOF:

Apart from reiterating that the PPPFA prohibits criteria founded upon race, gender and disability to be taken into account outside the ambit of the preference point system, these paragraphs do not require further reply.

34.

AD PARAGRAPHS 83 AND 84 THEREOF:

I have dealt with the content of these paragraphs in the Founding Affidavit and in the present Affidavit, and do not repeat the relevant aspects.

35.

AD PARAGRAPH 85 THEREOF:

The deponent of the Answering Affidavit attempts to put words into Applicant's mouth. Applicant and its members do not wish to exclude small businesses, and do not wish to exclude previously disadvantaged persons from employment. Applicant's complaint is that, contrary to what the legislature intended with the PPPFA, the 2017 Regulations favour selected groups as suppliers because of race alone, while neglecting constitutional and legal imperatives in totality.

36.

AD PARAGRAPHS 86, 87 AND 88 THEREOF:

But for indicating that I persist with the contentions made in the Founding Affidavit, I do not further reply to these paragraphs.

37.

AD PARAGRAPH 89 THEREOF:

I reiterate that non-compliance with the SEIAS Guidelines reflects upon the fairness, procedural and substantive, the transparency and the rationality of the 2017 Regulations.

38.

AD PARAGRAPH 90 THEREOF:

38.1 I submit that the ability of a supplier of goods, to deliver the goods, is an important consideration in the award of a tender asking for the delivery of goods. The ability of the supplier, and consequently functionality, is a pertinent aspect to be considered, and functionality cannot be thrown out of the door relating to the supply of goods, in contrast with the supply of services.

38.2 I fully agree that the award of a tender to a supplier who shows no capacity to carry out the tender, would plainly be irrational. The capability of tenderers is therefore, to the admission of Respondent, an uncontested criterion to be taken into account in the award of a tender. There can therefore be no reason why a discretion to take functionality into account is given to State Organs. In this regard I refer to **ANNEXURE "A12"** hereto, relating to the appointment of an architect and a quantity surveyor for repairs and remuneration at the Magistrate Office, Stellenbosch, where B-BBEE

level pre-qualification criteria are specifically mentioned, but no reference to functionality is made.

38.3 I already indicated that functionality was not a compulsory consideration under the 2001 and 2011 Regulations. One should however have expected of Respondent to cure the defects in those Regulations, and not to endorse same in the 2017 Regulations.

38.4 I reiterate that "*race, gender and disability*" do not constitute "*objective criteria*" within the meaning of Section 2(1)(f) of the PPPFA, for reasons already alluded to. The term "*objective criteria*" cannot, as Respondent attempts to do, be defined and interpreted, without taking the context of Section 2 of the PPPFA into account.

39.

AD PARAGRAPH 91 THEREOF:

39.1 I reiterate that Applicant and its members did not choose to ignore legitimate national imperatives to afford opportunities to black people, woman, disabled people and small businesses. All national and constitutional imperatives must however comply with the legislative legal framework, which is not true of the 2017 Regulations.

39.2 Applicant did not intend, and does not intend to offend in any way whatsoever. It merely pursues constitutional imperatives, and the equal

treatment, subject to exceptions provided for by law, of all partakers within the business world in South Africa.

40.

AD PARAGRAPHS 92, 93 AND 94 THEREOF:

I submit that a proper case for the relief applied for by Applicant has been made out, that no defence is disclosed by Respondent in the Answering Affidavit, with Annexures, and persists in Applicant's request that the relief set out in the Notice of Motion be granted to Applicant.

DEPONENT

I hereby certify that on this the 13th day of **SEPTEMBER 2017**, in my presence at Centurion the deponent signed this affidavit and declared that he knows and understands the contents hereof, had no objection to taking this oath and considers this as binding on his conscience and that the provisions contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

COMMISSIONER OF OATHS

Full name: Hendrik George van der Hoven

Designation: Kommissaris van Ede / Commissioner of Oaths
Ex Officio: Admitted Attorney RSA

Area Appointed: Northstract 94
Rietondale
Pretoria

Street address: 0084
(012) 644 4393

mandela bay
DEVELOPMENT AGENCY
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INVITATION TO APPLY TO BE LISTED ON THE ACCREDITED PROFESSIONAL SERVICE PROVIDER PANEL OF THE MANDELA BAY DEVELOPMENT AGENCY (MBDA REF: PSP 01/17)

The Mandela Bay Development Agency (MBDA), a Municipal Entity of the Nelson Mandela Bay Metropolitan Municipality (NMBMM), wishes to establish a panel of accredited professional service providers and accordingly invites suitably qualified and experienced professional service providers to apply for evaluation and listing as accredited service providers.

This invitation is directed at and the envisaged panel pertains to: Architects, Civil Engineers, Structural Engineers, Mechanical Engineers, Electrical Engineers, Landscape Architects, Environmental Specialists, Traffic Engineers, Land Surveyors, Health and Safety Practitioners, Heritage Practitioners, Project Managers, Urban and regional Planners, Estimators, Quantity Surveyors, Property Developers, Economists, Market Researchers, Social facilitation/public participation practitioners and Property Valuers.

The documents stipulating the requirements of the MBDA and the conditions pertaining to the invitation will be available at the offices of the MBDA, Corner Lower Valley Road & South Union Street, 1st Floor, Tramways Building, Central, Port Elizabeth on payment of a non-refundable document fee of R250.00 from Monday, 24 April 2017 after 10h00. Our office hours are weekdays between 08h00 to 16h30.

Payment must be made either by cheque, payable to "Mandela Bay Development Agency" or by direct deposit into the following bank account:

Bank:	NedBank
Branch:	Business Banking Eastern Cape
Account No:	1084853833
Branch Code:	126317
Account Name:	Mandela Bay Development Agency
Reference:	MBDA PSP 01/17 (followed by Applicant's name)

A compulsory briefing session will take place at the offices of the MBDA on Wednesday, 3 May 2017 at 10h00 and prospective Applicants not attending the briefing session will be barred from applying.

Five (5) copies, 3 hard copies and 2 on compact disk (CD) of each application must be placed in a sealed envelope and clearly marked "INVITATION TO APPLY TO BE LISTED AS AN ACCREDITED PROFESSIONAL SERVICE PROVIDER – MBDA PSP 01/17)" and are to be placed in the MBDA tender box on the 1st Floor, Tramways Building, Corner Lower Valley Road & South Union Street, Central. The closing date and time for submissions is Thursday 25 May 2017 at 12h00, whereafter applications will be publicly opened.

Late and incomplete applications will not be accepted.

For further information contact Pamela Govender during office hours at tel. 041 811 8200 or fax 041 582 5235 or email publictenders@mbda.co.za (please quote ref. no. MBDA PSP 01/17)

mandela bay
DEVELOPMENT AGENCY
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INVITATION TO APPLY TO BE LISTED ON THE ACCREDITED PROFESSIONAL SERVICE PROVIDER PANEL OF THE MANDELA BAY DEVELOPMENT AGENCY (MBDA REF: PSP 01/17)

1. INTRODUCTION:

1.1 The Mandela Bay Development Agency (MBDA), a Municipal Entity of the Nelson Mandela Bay Metropolitan Municipality (NMBMM), wishes to establish a panel of accredited professional service providers and accordingly invites suitably qualified and experienced professional service providers to apply for evaluation and listing as accredited service providers.

1.2 This invitation is directed at and the envisaged panel pertains to:Architects, Civil Engineers, Structural Engineers, Mechanical Engineers, Electrical Engineers, Landscape Architects, Environmental Specialists, Traffic Engineers, Land Surveyors, Health and Safety Practitioners, Heritage Practitioners, Project Managers, Urban and regional Planners, Estimators, Quantity Surveyors, Property Developers, Economists, Market Researchers, Social facilitation/public participation practitioners and Property Valuers.

2. INTERPRETATION AND DEFINITIONS:

2.1 In this invitation–

2.1.1 clause headings are for convenience and are not to be used in its interpretation;

2.1.2 unless the context indicates a contrary intention and expression which denotes –

2.1.2.1 any gender includes the other genders;

2.1.2.2 a natural person includes a juristic person and visa versa;

2.1.2.3 the singular includes the plural and visa versa.

2.2 Unless the context clearly indicates otherwise, the following words shall have the following meanings in this Agreement –

2.2.1 **"Applicant"** means any person or entity, who receives and/or responds to this invitation;

2.2.2 **"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;

2.2.3 **"black people"** has the meaning assigned to it in Section 1 of the Broad-Based Black Economic Empowerment Act namely Africans, Coloureds and Indians;

2.2.3.1 who are citizens of the Republic of South Africa by birth or decent; or

2.2.3.2 who became citizens of the Republic of South Africa by naturalization before 27 April 1994, or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date;

2.2.4 **"Broad-Based Black Economic Empowerment Act"** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

2.2.5 **"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 and, for the purposes hereof, an enterprise with an annual Total Revenue of R10 million or less;

2.2.6 **"In the service of the state"** means to be –

2.2.6.1 a member of –

2.2.6.1.1 any municipal council;
2.2.6.1.2 any provincial legislature; or
2.2.6.1.3 the National Assembly or the National Council of Provinces.

2.2.6.2 a member of the board of directors of any municipal entity;

2.2.6.3 an official of any municipality or municipal entity;

2.2.6.4 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);

2.2.6.5 an executive member of the accounting authority of any national or provincial public entity; or

2.2.6.6 an employee of Parliament or a provincial legislature;

2.2.7 **"Invitation"** means this invitation;

2.2.8 **"MBDA"** means the Mandela Bay Development Agency, a municipal entity established by the NMBMM;

2.2.9 **"NMBMM"** means the Nelson Mandela Bay Metropolitan Municipality;

2.2.10 **"proof of B-BBEE status level of contributor"** means:

2.2.10.1 The B-BBEE status level certificate issued by an authorised body or person; or

2.2.10.2 A sworn Affidavit as prescribed in the B-BBEE Codes of Good Practice in respect of an EME or QSE.

2.2.11 **"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 and, for the purposes hereof, a Measured Entity with an annual Total Revenue of between R10 million and R50 million;

3. OBJECTIVES:

3.1 The objectives of this Invitation is to establish a panel of accredited professional service providers desirous of being considered in relation to any procurement processes to be followed by the MBDA relative to any services which may be required by the MBDA in the field/s of expertise of such accredited professional service providers.

3.2 The panel will be established for a period of three years and the required services will be sought from the panel subject to the Supply Chain Management Policy of the MBDA and Paragraph 4.16 below.

3.3 This Invitation is directed at and the envisaged panel pertains to:

3.3.1 Architects;
3.3.2 Civil Engineers;
3.3.3 Structural Engineers;
3.3.4 Mechanical Engineers;
3.3.5 Electrical Engineers;
3.3.6 Landscape Architects;
3.3.7 Environmental Specialists;
3.3.8 Traffic Engineers;
3.3.9 Land Surveyors;
3.3.10 Health and Safety Practitioners;
3.3.11 Heritage Practitioners;
3.3.12 Project Managers;
3.3.13 Urban and regional Planners;
3.3.14 Estimators;
3.3.15 Quantity Surveyors;
3.3.16 Property Developers;
3.3.17 Economists;
3.3.18 Market Researchers;
3.3.19 Social facilitation/public participation practitioners; and
3.3.20 Property Valuers.

3.4 All Applicants are required to indicate the discipline/s to which their Application pertains on Annexure "A" hereto.

4. IMPORTANT NOTICE:

4.1 This Invitation forms part of the official Supply Chain Management Processes of the MBDA and goods and/or services may, subject to 4.16 below, be sourced from Applicants appointed to the relevant Panels subject to an appropriate competitive process at the time of procurement.

4.2 **A compulsory briefing session will take place at the offices of the MBDA on Wednesday, 3 May 2017 at 10h00 and prospective Applicants not attending the briefing session will be barred from applying.**

4.3 **Five (5) copies, 3 hard copies and 2 on compact disk (CD) of each application must be placed in a sealed envelope and clearly marked "INVITATION TO APPLY TO BE LISTED AS AN ACCREDITED PROFESSIONAL SERVICE PROVIDER – MBDA PSP 01/17)" and are to be placed in the MBDA tender box on the 1st Floor, Tramways Building, Corner Lower Valley Road & South Union Street, Central. The closing date and time for submissions is Thursday, 25 May 2017 at 12h00, whereafter applications will be publicly opened.**

4.4 Late and incomplete applications will not be accepted.

4.5 Posted, e-mailed, or faxed applications will not be accepted.

4.6 The MBDA reserves the right not to establish the panel of accredited professional service providers.

4.7 Receipt by the MBDA of the Applicant's response shall not in any manner whatsoever oblige the MBDA to enter into any negotiations or to enter into any contract with the Applicant.

4.8 MBDA accepts no liability for any loss incurred by any person(s) due to events or actions taken as a consequence of the preparation and dissemination of this invitation.

4.9 Any costs and/or expenses incurred by any Applicant in submitting its response shall be for the exclusive account of the Applicant and the MBDA shall not be liable in this respect whatsoever.

4.10 The Applicant acknowledges and agrees that it shall have no claim or claims whatsoever against the MBDA and/or the NMBMM, including claims for damages whether direct, indirect or consequential, arising from and/or pursuant to and/or in relation to the submission by the Applicant of its response pursuant to the Applicant having been invited to submit same in terms of this documentation.

4.11 Any Applicant:

4.11.1 having a conflict of interest in respect of the transaction for which the response is submitted or in the Service of the State; and/or

4.11.2 having been convicted for fraud or corruption within a five year period prior to the submission of its response; and/or

4.11.3 who has wilfully neglected, reneged on or has failed to comply with a government or local government contract within a five year period of the submission of its response; and/or

4.11.4 has outstanding tax obligations to the South African Revenue Services in respect of which arrangements have not been made; and/or

4.11.5 is in arrear in respect of charges payable to the NMBMM in terms of Section 118 of the Municipal Systems Act and has failed to make suitable arrangements to settle such arrears;

shall be barred from applying.

4.12 Professional service providers whose services are currently being utilised by the MBDA are required to comply with this notice.

4.13 Failure to provide all information required in this invitation will result in the application not being considered.

4.14 The MBDA shall be entitled to list an Applicant as an accredited professional service provider in respect of the discipline/s applied for and to maintain such listing for as long as the Applicant complies with the pre-qualification criteria herein contained.

4.15 The Applicant acknowledges that this invitation for it to submit a response to the MBDA as constituted by this document, does not confer on the Applicant any legal right or entitlement or legitimate expectation in relation to the MBDA and the Applicant acknowledges that this invitation similarly does not impose or create any obligation on the MBDA to be discharged in favour of the Applicant.

4.16 The MBDA, notwithstanding this invitation and the appointment of any Applicants to any of the panels, reserves the right to follow a separate and complete competitive bidding process in respect of the procurement of any goods or services, notwithstanding that such goods and/or services may be supplied or available from Applicants appointed to any panel.

4.17 **No verbal and / or telephonic queries and clarifications will be entertained by the MBDA and must be made in writing and will be responded to accordingly. The MBDA reserves the right to circulate the questions and answers to all registered Applicants in the form of a bulletin. All queries and clarifications are to be addressed to publictenders@mbda.co.za, the tender reference number MBDA PSP 01/17 must clearly be stated subject line. The cut - off date for such queries and clarifications will be close of business on Thursday 18 May 2017.**

5. PRE-QUALIFICATION CRITERIA:

5.1 This invitation is subject to pre-qualifying criteria and the condition that any Applicant must:

5.1.1 Hold a level One, Two or Three B-BBEE status level of contributor; or

5.1.2 Be:

5.1.2.1 an EME having an Enhanced B-BBEE recognition level for an Exempted Micro-Enterprise of a Level One Contributor (an EME which is 100% owned by black people) or a Level Two Contributor (an EME which is at least 51% owned by black people);

or

5.1.2.2 a QSE having an Enhanced B-BBEE recognition level for a Qualifying Small Enterprise of a Level One Contributor (a QSE which is 100% owned by black people) or a Level Two Contributor (a QSE which is at least 51% owned by black people).

5.1.3 The Applicant shall have and maintain Public Liability Insurance cover for the amount of not less than R5 000 000.00 (Five Million Rand) per claim and shall make payment of all premiums payable in respect of such policy promptly on due date and furnish the MBDA with proof of such insurance and confirmation of the payment of such premiums on demand.

5.2 Any Applicant failing to meet the pre-qualifying criteria stipulated in 5.1 will not be accepted.

5.3 All Applicants are required to submit the required proof of B-BBEE status level of contributor in response to this invitation clearly marked Annexure "B".

6. **FUNCTIONALITY:**

6.1 All responses to this invitation shall be evaluated in terms of the Functionality Criteria Score Sheets annexed hereto marked Annexure "C1" to "C20" which pertain to each of the respective disciplines and the relevant Annexure/s dependant on the discipline/s applied for is/are to be completed by all Applicants and, where applicable, documentation supporting each criteria in the relevant Annexure must be supplied.

6.2 Any response scoring less than 35 points out of 50 per discipline/s will not be an acceptable response in respect of the discipline/s under evaluation.

7. **PREFERENCE POINT SYSTEM AND COMPULSORY SUB-CONTRACTING:**

7.1 Given that this invitation does not call for pricing relating to any specific service which may be required by the MBDA in due course, no preference point system is indicated herein nor is it indicated whether any compulsory sub-contracting may be required by the MBDA relating to any specific service.

7.2 When calling for tenders in relation to any specific service required by the MBDA in due course, the MBDA shall determine and stipulate in the tender documents which preference point system is applicable and whether any compulsory sub-contracting is required in respect of the relevant tender.

8. **RETURNABLES:**

The following documents must be submitted with the Applicant's Application:

8.1 Applications to be signed by an agent or consortium/joint venture member must be accompanied by a duly authorized power of attorney/resolution and those signed on behalf of a Company, Close Corporation or Trust, must be accompanied by a certified extract of the Company's, Close Corporation's or Trust's minutes in terms of which such signature is authorized.

8.2 Applications to be submitted by a Company require certified copies of:

8.2.1 The Company's Memorandum and Articles/MOI;

8.2.2 The Company's current CIPC Certificate reflecting the Company's current Directors;

8.3 Applications to be submitted by a Close Corporation require certified copies of:

8.3.1 The Close Corporation's Founding Statement and all amending Founding Statements; or

8.3.2 A currently dated CIPC Certificate reflecting the Members of the Close Corporation;

8.4 Applications to be submitted by a Trust require certified copies of:

8.4.1 The Trust Deed and any amendments thereto;

8.4.2 The Trust's Letters of Authority and endorsements thereto;

8.5 Applications to be submitted by a Partnership require certified copies of:

8.5.1 The applicable Partnership Agreement;

8.5.2 The Identity Document or Registration Document of each partner.

8.6 Applications to be submitted by a Natural Person require a certified copy of the persons ID.

8.7 **A detailed company profile, curriculum vitae(s) of all professional(s) of the Applicant, including full details of qualifications, relevant experience in a technical field(s) and traceable project references, with project values.**

8.8 Details of the geographic location of the Applicant's practice in Port Elizabeth and South Africa.

8.9 Details of the office infrastructure supporting the practice in Port Elizabeth and South Africa.

8.10 The following information must be provided:

8.10.1 Managerial and Staffing composition.

8.10.2 Company's organogram

8.11 Each Applicant shall complete and submit Annexures "A" indicating which discipline/s the Applicant wishes to apply for. Failure to submit both such Annexure "A" shall render a Proposal null and void.

8.12 Each Applicant must submit proof of its registration (if applicable) with the relevant professional body for all the various disciplines it wishes to apply for (reference clause 3.3 and Annexure "A"). Failure to do so will render the application non responsive.

8.13 Each Applicant shall submit a certified copy of its proof of B-BBEE status level of contributor which shall be marked Annexure "B". Failure to submit such proof shall render an Application unacceptable.

8.14 Each Applicant shall complete and submit the applicable Annexure "C1" to "C20" dependent on which discipline/s is/are applied for. Failure to submit such applicable Annexure/s together with the required proof referred to therein shall render an Application unacceptable.

Annexure "C.1" pertains to Architects;
Annexure "C.2" pertains to Civil Engineers;

Annexure "C.3" pertains to Structural Engineers;
Annexure "C.4" pertains to Mechanical Engineers;
Annexure "C.5" pertains to Electrical Engineers;
Annexure "C.6" pertains to Landscape Architects;
Annexure "C.7" pertains to Environmental Specialists;
Annexure "C.8" pertains to Traffic Engineers;
Annexure "C.9" pertains to Land Surveyors;
Annexure "C.10" pertains to Health and Safety Practitioners;
Annexure "C.11" pertains to Heritage Practitioners;
Annexure "C.12" pertains to Project Managers;
Annexure "C.13" pertains to Urban and regional Planners;
Annexure "C.14" pertains to Estimators;
Annexure "C.15" pertains to Quantity Surveyors;
Annexure "C.16" pertains to Property Developers;
Annexure "C.17" pertains to Economists;
Annexure "C.18" pertains to Market Researchers;
Annexure "C.19" pertains to Social facilitation/public participation practitioners; and
Annexure "C.20" pertains to Property Valuers.

8.15 Each Applicant must submit a sworn statement in accordance with either Annexure "D" (for juristic persons) or "E" (for natural persons) hereto.

8.16 Each Applicant should complete and submit either Annexure "F" or "G" hereto (dependant on whether the Applicant is a natural person [to whom Annexure "F" is applicable] or a juristic person [to whom Annexure "G" is applicable]) given Paragraph 44 of the Supply Chain Management Policy of the MBDA which provides that:

Irrespective of the procurement process followed, no award may be made to a person –

(a) who is in the service of the state;

(b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or

(c) a person who is an advisor or consultant contracted with the MBDA.

8.17 Each Applicant should submit proof that it is registered on the National Treasury Central Supplier Database.

8.18 Each Applicant should submit a SARS Tax Clearance Certificate issued in respect of Good Standing.

8.19 Proof of its VAT registration number.

8.20 All Applicants should furnish proof that all amounts due to the Nelson Mandela Bay Metropolitan Municipality by the Applicant, it's Directors, Members, Trustees or Partners are up to date or that arrangements have been made in respect thereof. Applicants whose address or registered office is not within the jurisdiction of the Nelson Mandela Bay Metropolitan Municipality should furnish proof that all amounts due to the local authority in whose jurisdiction their address or registered office is situated are up to date or that arrangements have been made in respect.

8.21 Each Applicant provide proof that it has public liability insurance cover of at least R 5 million per claim, in the form of an insurance policy taken out in its name. Failure to submit such proof shall render an Application unacceptable.

8.22 Details of technical professional services provided by the Applicant to any organ of state in the last five (5) years.

ANNEXURE "A"

INDICATE DISCIPLINE/S OF PANEL APPLIED FOR WITH A "TICK"

Architects;	
Civil Engineers;	
Structural Engineers;	
Mechanical Engineers;	
Electrical Engineers;	
Landscape Architects;	
Environmental Specialists;	
Traffic Engineers;	
Land Surveyors;	
Health and Safety Practitioners;	
Heritage Practitioners;	
Project Managers;	
Urban and regional Planners;	
Estimators;	
Quantity Surveyors;	
Property Developers;	
Economists;	
Market Researchers	
Social facilitation/public participation practitioners.	
Property Valuers	

ANNEXURE "B"

PROOF OF B-BBEE STATUS LEVEL OF CONTRIBUTOR

ANNEXURE "C1"

FUNCTIONALITY CRITERIA SCORE SHEET
APPLICABLE TO
ARCHITECTS

		Score
1. The experience of an Applicant which carries a maximum value of 30 points will be determined by the greater points scored under either 1.1 or 1.2 below.		
1.1 The experience of the Applicant:		
1.1.1 Longer than 10 years	Possible points: 30	
1.1.2 Between 5 years and 10 years	Possible points: 20	
1.1.3 up to 5 years	Possible points: 10	
or		
1.2 The Aggregate experience of all qualified professionals in the employ of the Applicant:		
1.2.1 Longer than 10 years	Possible points: 30	
1.2.2 Between 5 years and 10 years	Possible points: 20	
1.2.3 up to 5 years	Possible points: 10	
Name(s) of contactable references, contact details and project values must be provided and failure to submit this will result in zero (0) points being scored for this section		
2. The Location of an Applicant which carries a maximum value of 20 points will be determined as follows:		
• Based within Nelson Mandela Bay	Possible points: 20	
• Based within Eastern Cape	Possible points: 15	
• Other provinces	Possible points: 10	

ANNEXURE "C2"

FUNCTIONALITY CRITERIA SCORE SHEET
APPLICABLE TO
CIVIL ENGINEERS

1. The experience of an Applicant which carries a maximum value of 30 points will be determined by the greater points scored under either 1.1 or 1.2 below.		**Score**
1.1 The experience of the Applicant:		
1.1.1 Longer than 10 years	Possible points: 30	
1.1.2 Between 5 years and 10 years	Possible points: 20	
1.1.3 up to 5 years	Possible points: 10	
or		
1.2 The Aggregate experience of all qualified professionals in the employ of the Applicant:		
1.2.1 Longer than 10 years	Possible points: 30	
1.2.2 Between 5 years and 10 years	Possible points: 20	
1.2.3 up to 5 years	Possible points: 10	
Name(s) of contactable references, contact details and project values must be provided and failure to submit this will result in zero (0) points being scored for this section		
2. The Location of an Applicant which carries a maximum value of 20 points will be determined as follows:		
• Based within Nelson Mandela Bay	Possible points: 20	
• Based within Eastern Cape	Possible points: 15	
• Other provinces	Possible points: 10	

ANNEXURE "C3"

FUNCTIONALITY CRITERIA SCORE SHEET
APPLICABLE TO
STRUCTURAL ENGINEERS

1. The experience of an Applicant which carries a maximum value of 30 points will be determined by the greater points scored under either 1.1 or 1.2 below.		**Score**
1.1 The experience of the Applicant:		
1.1.1 Longer than 10 years	Possible points: 30	
1.1.2 Between 5 years and 10 years	Possible points: 20	
1.1.3 up to 5 years	Possible points: 10	
or		
1.2 The Aggregate experience of all qualified professionals in the employ of the Applicant:		
1.2.1 Longer than 10 years	Possible points: 30	
1.2.2 Between 5 years and 10 years	Possible points: 20	
1.2.3 up to 5 years	Possible points: 10	
Name(s) of contactable references, contact details and project values must be provided and failure to submit this will result in zero (0) points being scored for this section		
2. The Location of an Applicant which carries a maximum value of 20 points will be determined as follows:		
• Based within Nelson Mandela Bay	Possible points: 20	
• Based within Eastern Cape	Possible points: 15	
• Other provinces	Possible points: 10	

791

ANNEXURE "C4"

FUNCTIONALITY CRITERIA SCORE SHEET
APPLICABLE TO
MECHANICAL ENGINEERS

		Score
1. The experience of an Applicant which carries a maximum value of 30 points will be determined by the greater points scored under either 1.1 or 1.2 below.		
1.1 The experience of the Applicant:		
1.1.1 Longer than 10 years	Possible points: 30	
1.1.2 Between 5 years and 10 years	Possible points: 20	
1.1.3 up to 5 years	Possible points: 10	
or		
1.2 The Aggregate experience of all qualified professionals in the employ of the Applicant:		
1.2.1 Longer than 10 years	Possible points: 30	
1.2.2 Between 5 years and 10 years	Possible points: 20	
1.2.3 up to 5 years	Possible points: 10	
Name(s) of contactable references, contact details and project values must be provided and failure to submit this will result in zero (0) points being scored for this section		
2. The Location of an Applicant which carries a maximum value of 20 points will be determined as follows:		
• Based within Nelson Mandela Bay	Possible points: 20	
• Based within Eastern Cape	Possible points: 15	
• Other provinces	Possible points: 10	

792

ANNEXURE "C5"

FUNCTIONALITY CRITERIA SCORE SHEET
APPLICABLE TO
ELECTRICAL ENGINEERS

		Score
1. The experience of an Applicant which carries a maximum value of 30 points will be determined by the greater points scored under either 1.1 or 1.2 below.		
1.1 The experience of the Applicant:		
1.1.1 Longer than 10 years	Possible points: 30	
1.1.2 Between 5 years and 10 years	Possible points: 20	
1.1.3 up to 5 years	Possible points: 10	
or		
1.2 The Aggregate experience of all qualified professionals in the employ of the Applicant:		
1.2.1 Longer than 10 years	Possible points: 30	
1.2.2 Between 5 years and 10 years	Possible points: 20	
1.2.3 up to 5 years	Possible points: 10	
Name(s) of contactable references, contact details and project values must be provided and failure to submit this will result in zero (0) points being scored for this section		
2. The Location of an Applicant which carries a maximum value of 20 points will be determined as follows:		
• Based within Nelson Mandela Bay	Possible points: 20	
• Based within Eastern Cape	Possible points: 15	
• Other provinces	Possible points: 10	

793

ANNEXURE "C6"

FUNCTIONALITY CRITERIA SCORE SHEET
APPLICABLE TO
LANDSCAPE ARCHITECTS

		Score
1. The experience of an Applicant which carries a maximum value of 30 points will be determined by the greater points scored under either 1.1 or 1.2 below.		
1.1 The experience of the Applicant:		
1.1.1 Longer than 10 years	Possible points: 30	
1.1.2 Between 5 years and 10 years	Possible points: 20	
1.1.3 up to 5 years	Possible points: 10	
or		
1.2 The Aggregate experience of all qualified professionals in the employ of the Applicant:		
1.2.1 Longer than 10 years	Possible points: 30	
1.2.2 Between 5 years and 10 years	Possible points: 20	
1.2.3 up to 5 years	Possible points: 10	
Name(s) of contactable references, contact details and project values must be provided and failure to submit this will result in zero (0) points being scored for this section		
2. The Location of an Applicant which carries a maximum value of 20 points will be determined as follows:		
• Based within Nelson Mandela Bay	Possible points: 20	
• Based within Eastern Cape	Possible points: 15	
• Other provinces	Possible points: 10	

ANNEXURE "C7"

FUNCTIONALITY CRITERIA SCORE SHEET
APPLICABLE TO
ENVIRONMENTAL SPECIALISTS

1. The experience of an Applicant which carries a maximum value of 30 points will be determined by the greater points scored under either 1.1 or 1.2 below.		**Score**
1.1 The experience of the Applicant:		
1.1.1 Longer than 10 years	Possible points: 30	
1.1.2 Between 5 years and 10 years	Possible points: 20	
1.1.3 up to 5 years	Possible points: 10	
or		
1.2 The Aggregate experience of all qualified professionals in the employ of the Applicant:		
1.2.1 Longer than 10 years	Possible points: 30	
1.2.2 Between 5 years and 10 years	Possible points: 20	
1.2.3 up to 5 years	Possible points: 10	
Name(s) of contactable references, contact details and project values must be provided and failure to submit this will result in zero (0) points being scored for this section		
2. The Location of an Applicant which carries a maximum value of 20 points will be determined as follows:		
• Based within Nelson Mandela Bay	Possible points: 20	
• Based within Eastern Cape	Possible points: 15	
• Other provinces	Possible points: 10	

795

ANNEXURE "C8"

FUNCTIONALITY CRITERIA SCORE SHEET
APPLICABLE TO
TRAFFIC ENGINEERS

		Score
1. The experience of an Applicant which carries a maximum value of 30 points will be determined by the greater points scored under either 1.1 or 1.2 below.		
1.1 The experience of the Applicant:		
1.1.1 Longer than 10 years	Possible points: 30	
1.1.2 Between 5 years and 10 years	Possible points: 20	
1.1.3 up to 5 years	Possible points: 10	
or		
1.2 The Aggregate experience of all qualified professionals in the employ of the Applicant:		
1.2.1 Longer than 10 years	Possible points: 30	
1.2.2 Between 5 years and 10 years	Possible points: 20	
1.2.3 up to 5 years	Possible points: 10	
Name(s) of contactable references, contact details and project values must be provided and failure to submit this will result in zero (0) points being scored for this section		
2. The Location of an Applicant which carries a maximum value of 20 points will be determined as follows:		
• Based within Nelson Mandela Bay	Possible points: 20	
• Based within Eastern Cape	Possible points: 15	
• Other provinces	Possible points: 10	

796

ANNEXURE "C9"

FUNCTIONALITY CRITERIA SCORE SHEET
APPLICABLE TO
LAND SURVEYORS

		Score
1. The experience of an Applicant which carries a maximum value of 30 points will be determined by the greater points scored under either 1.1 or 1.2 below.		
1.1 The experience of the Applicant:		
1.1.1 Longer than 10 years	Possible points: 30	
1.1.2 Between 5 years and 10 years	Possible points: 20	
1.1.3 up to 5 years	Possible points: 10	
or		
1.2 The Aggregate experience of all qualified professionals in the employ of the Applicant:		
1.2.1 Longer than 10 years	Possible points: 30	
1.2.2 Between 5 years and 10 years	Possible points: 20	
1.2.3 up to 5 years	Possible points: 10	
Name(s) of contactable references, contact details and project values must be provided and failure to submit this will result in zero (0) points being scored for this section		
2. The Location of an Applicant which carries a maximum value of 20 points will be determined as follows:		
• Based within Nelson Mandela Bay	Possible points: 20	
• Based within Eastern Cape	Possible points: 15	
• Other provinces	Possible points: 10	

797

ANNEXURE "C10"

FUNCTIONALITY CRITERIA SCORE SHEET
APPLICABLE TO
HEALTH AND SAFTEY PRACTITIONERS

		Score
1. The experience of an Applicant which carries a maximum value of 30 points will be determined by the greater points scored under either 1.1 or 1.2 below.		
1.1 The experience of the Applicant:		
1.1.1 Longer than 10 years	Possible points: 30	
1.1.2 Between 5 years and 10 years	Possible points: 20	
1.1.3 up to 5 years	Possible points: 10	
or		
1.2 The Aggregate experience of all qualified professionals in the employ of the Applicant:		
1.2.1 Longer than 10 years	Possible points: 30	
1.2.2 Between 5 years and 10 years	Possible points: 20	
1.2.3 up to 5 years	Possible points: 10	
Name(s) of contactable references, contact details and project values must be provided and failure to submit this will result in zero (0) points being scored for this section		
2. The Location of an Applicant which carries a maximum value of 20 points will be determined as follows:		
• Based within Nelson Mandela Bay	Possible points: 20	
• Based within Eastern Cape	Possible points: 15	
• Other provinces	Possible points: 10	

ANNEXURE "C11"

FUNCTIONALITY CRITERIA SCORE SHEET
APPLICABLE TO
HERITAGE PRACTITIONERS

		Score
1. The experience of an Applicant which carries a maximum value of 30 points will be determined by the greater points scored under either 1.1 or 1.2 below.		
1.1 The experience of the Applicant:		
1.1.1 Longer than 10 years	Possible points: 30	
1.1.2 Between 5 years and 10 years	Possible points: 20	
1.1.3 up to 5 years	Possible points: 10	
or		
1.2 The Aggregate experience of all qualified professionals in the employ of the Applicant:		
1.2.1 Longer than 10 years	Possible points: 30	
1.2.2 Between 5 years and 10 years	Possible points: 20	
1.2.3 up to 5 years	Possible points: 10	
Name(s) of contactable references, contact details and project values must be provided and failure to submit this will result in zero (0) points being scored for this section		
2. The Location of an Applicant which carries a maximum value of 20 points will be determined as follows:		
• Based within Nelson Mandela Bay	Possible points: 20	
• Based within Eastern Cape	Possible points: 15	
• Other provinces	Possible points: 10	

ANNEXURE "C12"

FUNCTIONALITY CRITERIA SCORE SHEET
APPLICABLE TO
PROJECT MANAGERS

		Score
1. The experience of an Applicant which carries a maximum value of 30 points will be determined by the greater points scored under either 1.1 or 1.2 below.		
1.1 The experience of the Applicant:		
1.1.1 Longer than 10 years	Possible points: 30	
1.1.2 Between 5 years and 10 years	Possible points: 20	
1.1.3 up to 5 years	Possible points: 10	
or		
1.2 The Aggregate experience of all qualified professionals in the employ of the Applicant:		
1.2.1 Longer than 10 years	Possible points: 30	
1.2.2 Between 5 years and 10 years	Possible points: 20	
1.2.3 up to 5 years	Possible points: 10	
Name(s) of contactable references, contact details and project values must be provided and failure to submit this will result in zero (0) points being scored for this section		
2. The Location of an Applicant which carries a maximum value of 20 points will be determined as follows:		
• Based within Nelson Mandela Bay	Possible points: 20	
• Based within Eastern Cape	Possible points: 15	
• Other provinces	Possible points: 10	

800

ANNEXURE "C13"

FUNCTIONALITY CRITERIA SCORE SHEET
APPLICABLE TO
URBAN AND REGIONAL PLANNERS

		Score
1. The experience of an Applicant which carries a maximum value of 30 points will be determined by the greater points scored under either 1.1 or 1.2 below.		
1.1 The experience of the Applicant:		
1.1.1 Longer than 10 years	Possible points: 30	
1.1.2 Between 5 years and 10 years	Possible points: 20	
1.1.3 up to 5 years	Possible points: 10	
or		
1.2 The Aggregate experience of all qualified professionals in the employ of the Applicant:		
1.2.1 Longer than 10 years	Possible points: 30	
1.2.2 Between 5 years and 10 years	Possible points: 20	
1.2.3 up to 5 years	Possible points: 10	
Name(s) of contactable references, contact details and project values must be provided and failure to submit this will result in zero (0) points being scored for this section		
2. The Location of an Applicant which carries a maximum value of 20 points will be determined as follows:		
• Based within Nelson Mandela Bay	Possible points: 20	
• Based within Eastern Cape	Possible points: 15	
• Other provinces	Possible points: 10	

801

ANNEXURE "C14"

FUNCTIONALITY CRITERIA SCORE SHEET
APPLICABLE TO
ESTIMATORS

1. The experience of an Applicant which carries a maximum value of 30 points will be determined by the greater points scored under either 1.1 or 1.2 below.		**Score**
1.1 The experience of the Applicant:		
1.1.1 Longer than 10 years	Possible points: 30	
1.1.2 Between 5 years and 10 years	Possible points: 20	
1.1.3 up to 5 years	Possible points: 10	
or		
1.2 The Aggregate experience of all qualified professionals in the employ of the Applicant:		
1.2.1 Longer than 10 years	Possible points: 30	
1.2.2 Between 5 years and 10 years	Possible points: 20	
1.2.3 up to 5 years	Possible points: 10	
Name(s) of contactable references, contact details and project values must be provided and failure to submit this will result in zero (0) points being scored for this section		
2. The Location of an Applicant which carries a maximum value of 20 points will be determined as follows:		
◦ Based within Nelson Mandela Bay	Possible points: 20	
◦ Based within Eastern Cape	Possible points: 15	
◦ Other provinces	Possible points: 10	

ANNEXURE "C15"

FUNCTIONALITY CRITERIA SCORE SHEET
APPLICABLE TO
QUANTITY SURVEYORS

		Score
1. The experience of an Applicant which carries a maximum value of 30 points will be determined by the greater points scored under either 1.1 or 1.2 below.		
1.1 The experience of the Applicant:		
1.1.1 Longer than 10 years	Possible points: 30	
1.1.2 Between 5 years and 10 years	Possible points: 20	
1.1.3 up to 5 years	Possible points: 10	
or		
1.2 The Aggregate experience of all qualified professionals in the employ of the Applicant:		
1.2.1 Longer than 10 years	Possible points: 30	
1.2.2 Between 5 years and 10 years	Possible points: 20	
1.2.3 up to 5 years	Possible points: 10	
Name(s) of contactable references, contact details and project values must be provided and failure to submit this will result in zero (0) points being scored for this section		
2. The Location of an Applicant which carries a maximum value of 20 points will be determined as follows:		
• Based within Nelson Mandela Bay	Possible points: 20	
• Based within Eastern Cape	Possible points: 15	
• Other provinces	Possible points: 10	

803

ANNEXURE "C18"

FUNCTIONALITY CRITERIA SCORE SHEET
APPLICABLE TO
PROPERTY DEVELOPERS

		Score
1. The experience of an Applicant which carries a maximum value of 30 points will be determined by the greater points scored under either 1.1 or 1.2 below.		
1.1 The experience of the Applicant:		
1.1.1 Longer than 10 years	Possible points: 30	
1.1.2 Between 5 years and 10 years	Possible points: 20	
1.1.3 up to 5 years	Possible points: 10	
or		
1.2 The Aggregate experience of all qualified professionals in the employ of the Applicant:		
1.2.1 Longer than 10 years	Possible points: 30	
1.2.2 Between 5 years and 10 years	Possible points: 20	
1.2.3 up to 5 years	Possible points: 10	
Name(s) of contactable references, contact details and project values must be provided and failure to submit this will result in zero (0) points being scored for this section		
2. The Location of an Applicant which carries a maximum value of 20 points will be determined as follows:		
• Based within Nelson Mandela Bay	Possible points: 20	
• Based within Eastern Cape	Possible points: 15	
• Other provinces	Possible points: 10	

804

ANNEXURE "C17"

FUNCTIONALITY CRITERIA SCORE SHEET
APPLICABLE TO
ECONOMISTS

		Score
1. The experience of an Applicant which carries a maximum value of 30 points will be determined by the greater points scored under either 1.1 or 1.2 below.		
1.1 The experience of the Applicant:		
1.1.1 Longer than 10 years	Possible points: 30	
1.1.2 Between 5 years and 10 years	Possible points: 20	
1.1.3 up to 5 years	Possible points: 10	
or		
1.2 The Aggregate experience of all qualified professionals in the employ of the Applicant:		
1.2.1 Longer than 10 years	Possible points: 30	
1.2.2 Between 5 years and 10 years	Possible points: 20	
1.2.3 up to 5 years	Possible points: 10	
Name(s) of contactable references, contact details and project values must be provided and failure to submit this will result in zero (0) points being scored for this section		
2. The Location of an Applicant which carries a maximum value of 20 points will be determined as follows:		
• Based within Nelson Mandela Bay	Possible points: 20	
• Based within Eastern Cape	Possible points: 15	
• Other provinces	Possible points: 10	

ANNEXURE "C18"

FUNCTIONALITY CRITERIA SCORE SHEET
APPLICABLE TO
MARKET RESEARCHES

		Score
1.	**The experience of an Applicant which carries a maximum value of 30 points will be determined by the greater points scored under either 1.1 or 1.2 below.**	
	1.1 The experience of the Applicant:	
	1.1.1 Longer than 10 years — Possible points: 30	
	1.1.2 Between 5 years and 10 years — Possible points: 20	
	1.1.3 up to 5 years — Possible points: 10	
	or	
	1.2 The Aggregate experience of all qualified professionals in the employ of the Applicant:	
	1.2.1 Longer than 10 years — Possible points: 30	
	1.2.2 Between 5 years and 10 years — Possible points: 20	
	1.2.3 up to 5 years — Possible points: 10	
	Name(s) of contactable references, contact details and project values must be provided and failure to submit this will result in zero (0) points being scored for this section	
2.	**The Location of an Applicant which carries a maximum value of 20 points will be determined as follows:**	
	• Based within Nelson Mandela Bay — Possible points: 20	
	• Based within Eastern Cape — Possible points: 15	
	• Other provinces — Possible points: 10	

806

ANNEXURE "C19"

FUNCTIONALITY CRITERIA SCORE SHEET
APPLICABLE TO

SOCIAL FACILITATION/PUBLIC PARTICIPATION PRACTITIONERS

		Score
1. The experience of an Applicant which carries a maximum value of 30 points will be determined by the greater points scored under either 1.1 or 1.2 below.		
1.1 The experience of the Applicant:		
1.1.1 Longer than 10 years	Possible points: 30	
1.1.2 Between 5 years and 10 years	Possible points: 20	
1.1.3 up to 5 years	Possible points: 10	
or		
1.2 The Aggregate experience of all qualified professionals in the employ of the Applicant:		
1.2.1 Longer than 10 years	Possible points: 30	
1.2.2 Between 5 years and 10 years	Possible points: 20	
1.2.3 up to 5 years	Possible points: 10	
Name(s) of contactable references, contact details and project values must be provided and failure to submit this will result in zero (0) points being scored for this section		
2. The Location of an Applicant which carries a maximum value of 20 points will be determined as follows:		
• Based within Nelson Mandela Bay	Possible points: 20	
• Based within Eastern Cape	Possible points: 15	
• Other provinces	Possible points: 10	

807

ANNEXURE "C20"

FUNCTIONALITY CRITERIA SCORE SHEET
APPLICABLE TO
PROPERTY VALUERS

		Score
1.	**The experience of an Applicant which carries a maximum value of 30 points will be determined by the greater points scored under either 1.1 or 1.2 below.**	
	1.1 The experience of the Applicant:	
	1.1.1 Longer than 10 years — Possible points: 30	
	1.1.2 Between 5 years and 10 years — Possible points: 20	
	1.1.3 up to 5 years — Possible points: 10	
	or	
	1.2 The Aggregate experience of all qualified professionals in the employ of the Applicant:	
	1.2.1 Longer than 10 years — Possible points: 30	
	1.2.2 Between 5 years and 10 years — Possible points: 20	
	1.2.3 up to 5 years — Possible points: 10	
	Name(s) of contactable references, contact details and project values must be provided and failure to submit this will result in zero (0) points being scored for this section	
2.	**The Location of an Applicant which carries a maximum value of 20 points will be determined as follows:**	
	• Based within Nelson Mandela Bay — Possible points: 20	
	• Based within Eastern Cape — Possible points: 15	
	• Other provinces — Possible points: 10	

808

ANNEXURE "D"

AFFIDAVIT

I, the undersigned,

_____

_____

Identity Number:

_____

_____

do hereby make oath and state that:

a. I am a duly authorized representative of:

_____ Limited

Registration No. / /06

b. I am a duly authorized representative

of:_____(Pty) Limited

Registration No. / /07

I am a duly authorized representative

of:_____ CC

Registration No. CK / /23

d. I am a duly authorized representative

of:_____ Trust

Registration No.: IT

the Applicant in respect of the attached Application.

1. All information/documentation submitted on behalf of the Applicant in connection with the Application is true and correct.

2. The Applicant's registered office is

_____

_____

3. The Applicant's principal place of business is

_____

_____

4. The Applicant has no actual or likely conflict of interest in respect of the transaction for which the response pertains nor is the Applicant in the Service of the State as referred to in the MBDA's Supply Chain Management Policy. (delete if not applicable and furnish details of such conflict of interest)

5. The Applicant's SARS Income Tax Reference Number is

_____

6. The Applicant's SARS VAT Registration Number is

_____

7. The Applicant has no outstanding tax obligations or the Applicant has made arrangements to meet its outstanding tax obligations to the South African Revenue Services and a certificate of the South African Revenue Services is attached hereto in this regard.

8. The Applicant and/or its officials have not been convicted for fraud or corruption within a 5 (five) year period prior hereto.

9. The Applicant is / is not (delete whichever is not applicable) engaged in any Government or Local Government contract awarded within 5 (five) years prior to date hereof.

10. The Applicant is / is not (delete whichever is not applicable) in arrears in respect of any charges payable in terms of Section 118 of the Municipal Systems Act. (If in arrears, a copy of a document evidencing satisfactory arrangements made with the NMBMM is to be annexed)

11. The Applicant acknowledges that should any information attested to herein be false, such false statement shall entitle the MBDA to terminate any agreement to which this submission relates.

_____

I CERTIFY that the Deponent has acknowledged that he/she knows and understands the contents of this Affidavit which was signed and sworn to before me at PORT ELIZABETH this _____ day of _____ 20_____.

_____

COMMISSIONER OF OATHS

NOTE: ANY STATEMENT WHICH IS NOT APPLICABLE IS TO BE DELETED.

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ANNEXURE "E"

AFFIDAVIT

I, the undersigned,

_____

_____

Identity Number:

_____

_____

do hereby make oath and state that:

1. I am the Applicant in respect of the attached Application.

2. I am not aware of any actual or likely conflict of interest which I may have in respect of the transaction to which the response pertains nor am I in the Service of the State as referred to in the MBDA's Supply Chain Management Policy. (delete if not applicable and furnish details of such conflict of interest)

3. My SARS Income Tax Reference Number is

_____

4. My SARS VAT Registration Number is

_____

5. I have no outstanding tax obligations or I have made arrangements to meet my outstanding tax obligations to the South African Revenue Services and a certificate of the South African Revenue Services is attached hereto in this regard.

6. I have not been convicted for fraud or corruption within a 5 (five) year period prior to date hereof.

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7. I am / am not (delete whichever is not applicable) engaged in any Government or Local Government contract awarded within 5 (five) years prior to date hereof.

8. I am / am not (delete whichever is not applicable) in arrears in respect of any charges payable in terms of Section 118 of the Municipal Systems Act. (If in arrears, a copy of a document evidencing satisfactory arrangements made with the NMBMM is to be annexed).

9. I acknowledge acknowledge that should any information attested to herein be false, such false statement shall entitle the MBDA to terminate any agreement to which this submission relates.

_____

I CERTIFY that the Deponent has acknowledged that he/she knows and understands the contents of this Affidavit which was signed and sworn to before me at PORT ELIZABETH this _____ day of _____ 20_____.

_____

COMMISSIONER OF OATHS

NOTE: ANY STATEMENT WHICH IS NOT APPLICABLE IS TO BE DELETED.

DESCRIPTION	REQUIRED AT	TENDER NO	CLOSING DATE
STELLENBOSCH: Magistrate Office: repairs & renovation. Appointment of: Architect. *Meeting/Briefing Session:* *Bids obtainable from:* Custom House Building, Lower Heerengracht, Foreshore, Cape Town, 9th floor, Room 941, *Cost of Documents:* R100, *Payment Details:* Cash *Post or Deliver Bids to:* The Director- General ,Dept of Public Works,Private bag X 9027, Cape Town, 8000. Custom House:tender box, main entrance, ground floor: Cape Town *For technical information please contact:* Mr F Mathews. *Tel:* (021) 4022288/ 0829084208. *Fax:* (021) 4187039 *Email:* faizel.mathews@dpw.gov.za. *Hours:* 7:30am to 4:00pm. *For completion of bid documents please contact:* Ms A Jaffa / Mr S Hobongwana, *Tel:* (021) 4022092 / 2077, *Fax:* (021) 4196088, *Email:* annette.jaffa@dpw.gov.za, *Hours:* 7:30am to 4:00pm. Only bidders with a BBBEE level of 1& 2 and / or EME & QSE can tender.	Western Cape: Department of Public Works: CONSULTANT	CPTC009/ 17	2017-08-18 at 11:00

DESCRIPTION	REQUIRED AT	TENDER NO	CLOSING DATE
STELLENBOSCH: Magistrate Office: repairs & renovation. Appointment of : Quantity Surveyor *Meeting/Briefing Session:* *Bids obtainable from:* Custom House Building, Lower Heerengracht, Foreshore, Cape Town, 9th floor, Room 941, *Cost of Documents:* R100, *Payment Details:* Cash *Post or Deliver Bids to:* The Director- General ,Dept of Public Works,Private bag X 9027, Cape Town, 8000. Custom House:tender box, main entrance, ground floor: Cape Town *For technical information please contact:* Mr F Mathews. *Tel:* (021) 4022288/ 0829084208. *Fax:* (021) 4187039 *Email:* faizel.mathews@dpw.gov.za. *Hours:* 7:30am to 4:00pm. *For completion of bid documents please contact:* Ms A Jaffa / Mr S Hobongwana, *Tel:* (021) 4022092 / 2077, *Fax:* (021) 4196088, *Email:* annette.jaffa@dpw.gov.za, *Hours:* 7:30am to 4:00pm. Only bidders with a BBBEE level of 1& 2 and / or EME & QSE can tender.	Western Cape: Department of Public Works: CONSULTANT	CPTC004/ 17	2017-08-18 at 11:00

DESCRIPTION	REQUIRED AT	TENDER NO	CLOSING DATE
APPOINTMENT OF A SERVICE PROVIDER FOR THE LEASE WATER COOLERS AND SUPPLY AND DELIVER PURIFIED WATER FOR THE DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM (GAUTENG PROVINCE) FOR A PERIOD OF 24 MONTHS. *Meeting/Briefing Session:*THERE WILL BE NO BRIEFING SESSION. *Bids obtainable from:* www.ruraldevelopment.gov.za or www.etenders.gov.za or at 184 Jeff Masemola Street, Pretoria, 0001, *Cost of Documents:* Hard copy documents are available at R100. Download the electronic copy for free., *Payment Details:* Account name: Department of Rural Development and Land Reform Bank: ABSA; Branch number: 632005; Account number: 40-5400-6793; Reference number: 04009549., *Notes:* The 80/20 preference points system as prescribed in the Preferential Procurement Policy Framework Act (PPPFA) will be applied.. *Post or Deliver Bids to:* The Department of Rural Development and Land Reform, 184 Jeff Masemola Street, Pretoria, 0001. BID PROPOSALS MUST BE DEPOSITED IN THE BID BOX WHICH IS IDENTIFIED AS THE "BID/TENDER BOX SITUATED AT THE RECEPTION." THE BID BOX OF THE OFFICE OF THE DEPARTMENT OF RURAL DEVELOPMENT & LAND REFORM IS OPEN 24 HOURS A DAY, 7 DAYS A WEEK. THE BID BOX WILL BE CLOSED AT 11H00 WHICH IS THE CLOSING TIME OF BIDS. *For technical information please contact:* Ms Felicia Maleho / Mr Isaac Nthutang. *Tel:* (012) 312 9483/9208 *Email:* /felicia.maleho@drdlr.gov.za / isaac.nthutang@drdlr.gov.za. *Hours:* 07:30 - 16:00. *For completion of bid documents please contact:* Daley Mongwai / Ms. Reabetswe Makana, *Tel:* (012) 312 8359/9789/9448/9518, *Email:* daley.mongwai@drdlr.gov.za / reabetswe.makana@drdlr.gov.za, *Hours:* 07:30 - 16:00.	Gauteng: Department of Rural Development and Land Reform: SUPPLY CHAIN AND FACILITIES MANAGEMENT SERVICES	5/ 2/ 2/ 1- RDLR 0118(2017/ 2018)	2017-08-11 at 11:00

"A13"

TFORM 1 814

[redacted]

To submit a Cancellation notice, use TForm2, for a Results notice use TForm3, for a Responses from Suppliers notice use TForm4

*Type of Tender Notice: (Select an option) ☑ New Tender ☐ Erratum ☐ Invitation to Register on Supplier Database

TENDER CATEGORY:

*Tender Category: SERVICES: PROFESSIONAL

REQUIRED AT:

Province: Eastern Cape

*Department or Entity: Department of Public Works National

Division or Section: PROCUREMENT: SCM

TENDER DETAILS:

*Tender / Quotation No: PE28/2017

*Closing Date: 2017-08-29 (CCYY-MM-DD) *Closing Time: 11:00 (HH:MM)

Date of Original Publication: (only required for ERRATUM notice)

For a New Tender or Invitation to Register on Supplier Database advertisement this date field is disabled

*Short Description of Tender:

TYEFU POLICE STATION: CONDITION BASED MAINTENANCE ON CIVIL, ELECTRICAL, & STRUCTURAL ELEMENTS OF THE STATION AND OFFICIAL QUARTERS. (ARCHITECTURAL SERVICES)
THE BID WILL BE EVALUATED IN TERM OF THE 80/20 SCORING SYSTEM
Functionality Criteria:
Experience in Civil & Structural Engineering Services - 30; Performance on comparable projects- 20; Capacity/Resources- 30;
Competence of Key Persons - 20
Minimum functionality score to qualify for further evaluation: 50
Compliance with Pre- qualification criteria for Preferential Procurement:
A tenderer having stipulated minimum B-BBEE status level of contributor; level 1 or level 2
EME or QSE

BRIEFING SESSION and SITE MEETING(S):

Briefing Session Details:

A COMPULSORY SITE MEETING IS REQUIRED. BIDDERS TO BE ON SITE AT THE START OF THE MEETING AND MUST REMAIN FOR THE ENTIRE DURATION. LATE COMERS WILL NOT BE ALLOWED IN THE MEETING.

Briefing Session Date: 2017-08-16 Briefing Session Time: 11:00

Site Meeting(s) - Meeting Place(s), Date(s) and Time(s)

THE SITE MEETING WILL TAKE PLACE ON THE 16TH OF AUGUST 2017, AT 11:00. AT TYEFU POLICE STATION.

This is a multi-page form. Please complete all relevant sections before submitting the form for publication.

TFORM 1

DOCUMENTS AVAILABLE FROM:

***Address (Specify details for Hard Copy Documents / Email / Website as applicable, as well as the document cost for each option):**

NATIONAL DEPARTMENT OF PUBLIC WORKS, EBEN DONGES BUILDING, HANCOCK STREET, NORTH END, PORT ELIZABETH, 6056

Payment Details:

R100.00 NON-REFUNDABLE: DOCUMENTS ARE PAYABLE ON THE 4TH FLOOR BY THE CASHIER, ROOM 420. TO COLLECT ON THE 2ND FLOOR ROOM 296.

Document Notes:

N/A

POST OR DELIVER DOCUMENTS TO:

***Address:**

ATIONAL DEPARTMENT OF PUBLIC WORKS, PRIVATE BAG X 3913, NORTH END, PORT ELIZABETH, 6056, OR SHOULD BE DEPOSITED IN THE TENDER BOX SITUATED ON THE GROUND FLOOR BY THE SECURITY.

Document Delivery Instructions:

NATIONAL DEPARTMENT OF PUBLIC WORKS, EBEN DONGES BUILDING, HANCOCK STREET, NORTH END, PORT ELIZABETH, 6056, OR SHOULD BE DEPOSITED IN THE TENDER BOX SITUATED ON THE GROUND FLOOR BY THE SECURITY.

SPECIFICATIONS / TECHNICAL CONTACT DETAILS:

Name:	MISS NOMZAMO MNQUMEVU		
Telephone:	041- 408 2084 / 082 814 8703	**Fax Nr:**	086 538 3623
Email:	nomzamo.mnqumevu@dpw.gov.za		
Office Hours:	08h00-12h45 and 13h30-16h00		

TENDER CONTACT DETAILS:

Name:	MR PETER BLOUW		
Telephone:	041- 408 2076	**Fax Nr:**	086 641 5963
Email:	peter.blouw@dpw.gov.za		
Office Hours:	08h00-12h45 and 13h30-16h00		

Additional Notes:

All bidders/Contractors/Suppliers who is doing business with the Government must be registered on the Central Supplier Database. Prospective Bidders/Contractors/Suppliers will be able to self- register on Central Supplier Database Website which is www.csd.gov.za

TENDER SUBMITTED BY:

***Advertiser Name:**	PETER BLOUW		
Advertiser Email:	peter.blouw@dpw.gov.za		
***Date Submitted:**	2017-07-26	***Advertiser Telephone:**	041- 408 2076

***For Publication in the Government Gazette on:** 2017-08-04 (CCYY-MM-DD)

TFORM 1

To submit a Cancellation notice, use TForm2, for a Results notice use TForm3, for a Responses from Suppliers notice use TForm4

*Type of Tender Notice: (Select an option) ☑ New Tender ☐ Erratum ☐ Invitation to Register on Supplier Database

TENDER CATEGORY:

*Tender Category: SERVICES: PROFESSIONAL

REQUIRED AT:

Province: Eastern Cape

*Department or Entity: Department of Public Works National

Division or Section: PROCUREMENT: SCM

TENDER DETAILS:

*Tender / Quotation No: PE26/2017

*Closing Date: 2017-08-29 (CCYY-MM-DD) *Closing Time: 11:00 (HH:MM)

Date of Original Publication: (only required for ERRATUM notice)

For a New Tender or Invitation to Register on Supplier Database advertisement this date field is disabled

*Short Description of Tender:

TYEFU POLICE STATION: CONDITION BASED MAINTENANCE ON CIVIL, ELECTRICAL, & STRUCTURAL ELEMENTS OF THE STATION AND OFFICIAL QUARTERS. (ARCHITECTURAL SERVICES)
THE BID WILL BE EVALUATED IN TERM OF THE 80/20 SCORING SYSTEM
Functionality Criteria:
Experience in Civil & Structural Engineering Services - 30; Performance on comparable projects- 20; Capacity/Resources- 30;
Competence of Key Persons - 20
Minimum functionality score to qualify for further evaluation: 50
Compliance with Pre- qualification criteria for Preferential Procurement:
A tenderer having stipulated minimum B-BBEE status level of contributor; level 1 or level 2
EME or QSE

BRIEFING SESSION and SITE MEETING(S):

Briefing Session Details:

A COMPULSORY SITE MEETING IS REQUIRED. BIDDERS TO BE ON SITE AT THE START OF THE MEETING AND MUST REMAIN FOR THE ENTIRE DURATION. LATE COMERS WILL NOT BE ALLOWED IN THE MEETING.

Briefing Session Date: 2017-08-16 Briefing Session Time: 11:00

Site Meeting(s) - Meeting Place(s), Date(s) and Time(s)

THE SITE MEETING WILL TAKE PLACE ON THE 16TH OF AUGUST 2017, AT 11:00. AT TYEFU POLICE STATION.

This is a multi-page form. Please complete all relevant sections before submitting the form for publication.

TFORM 1

DOCUMENTS AVAILABLE FROM:

***Address (Specify details for Hard Copy Documents / Email / Website as applicable, as well as the document cost for each option):**

NATIONAL DEPARTMENT OF PUBLIC WORKS, EBEN DONGES BUILDING, HANCOCK STREET, NORTH END, PORT ELIZABETH, 6056

Payment Details:

R100.00 NON-REFUNDABLE: DOCUMENTS ARE PAYABLE ON THE 4TH FLOOR BY THE CASHIER, ROOM 420. TO COLLECT ON THE 2ND FLOOR ROOM 296.

Document Notes:

N/A

POST OR DELIVER DOCUMENTS TO:

***Address:**

ATIONAL DEPARTMENT OF PUBLIC WORKS, PRIVATE BAG X 3913, NORTH END, PORT ELIZABETH, 6056, OR SHOULD BE DEPOSITED IN THE TENDER BOX SITUATED ON THE GROUND FLOOR BY THE SECURITY.

Document Delivery Instructions:

NATIONAL DEPARTMENT OF PUBLIC WORKS, EBEN DONGES BUILDING, HANCOCK STREET, NORTH END, PORT ELIZABETH, 6056, OR SHOULD BE DEPOSITED IN THE TENDER BOX SITUATED ON THE GROUND FLOOR BY THE SECURITY.

SPECIFICATIONS / TECHNICAL CONTACT DETAILS:

Name:	MISS NOMZAMO MNQUMEVU		
Telephone:	041- 408 2084 / 082 814 8703	**Fax Nr:**	086 538 3623
Email:	nomzamo.mnqumevu@dpw.gov.za		
Office Hours:	08h00-12h45 and 13h30-16h00		

TENDER CONTACT DETAILS:

me:	MR PETER BLOUW		
Telephone:	041- 408 2076	**Fax Nr:**	086 641 5983
Email:	peter.blouw@dpw.gov.za		
Office Hours:	08h00-12h45 and 13h30-16h00		

Additional Notes:

All bidders/Contractors/Suppliers who is doing business with the Government must be registered on the Central Supplier Database. Prospective Bidders/Contractors/Suppliers will be able to self- register on Central Supplier Database Website which is www.csd.gov.za

TENDER SUBMITTED BY:

***Advertiser Name:**	PETER BLOUW		
Advertiser Email:	peter.blouw@dpw.gov.za		
***Date Submitted:**	2017-07-26	***Advertiser Telephone:**	041- 408 2076

***For Publication in the Government Gazette on:** 2017-08-04 (CCYY-MM-DD)

"A14"

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Tender Notice and Invitation to Tender

CONSTRUCTION OF PEDESTRIAN FACILITIES ON NATIONAL ROUTE N2 SECTION 25 BETWEEN UMLAAS CANAL (KM4.0) AND WANDSBECK ROAD (KM19.5)

Employer Tender Number: NRA C.004-003-2011/9

cidb Reference Number: 100038690

SOUTH AFRICAN NATIONAL ROADS AGENCY LIMITED INVITES TENDERS FOR CONSTRUCTION OF PEDESTRIAN FACILITIES ON NATIONAL ROUTE N2 SECTION 25 BETWEEN UMLAAS CANAL (KM4.0) AND WANDSBECK ROAD (KM19.5)

It is estimated that tenderers should have a cidb contractor grading of 7CE.

Preferences are offered to tenderers who Fully Comply with the tendering conditions outline in the tender document.

Only tenderers who are BBBEE compliant and are rated inline with the DTI codes and have a B-BBEE contributor status level of 1, 2, 3 or 4, are eligible to tender,

have access to a suitably qualified and experienced construction manager, who will be the single point accountability and responsibility for the management of the construction works, and who is registered with SACPCMP as PrCM or with ECSA as PrEng or PrTechEng are eligible to tender.

Only propose to use locally produced or locally manufactured products and components for construction with a stipulated minimum threshold for local content and production as stated in the Tender Data

subcontract a minimum of thirty percent (30%) of the work if the tenderer has a CIDB 8CE contractor designation, otherwise the successful tenderer shall subcontract a minimum of fifty percent (50%)
are eligible to submit tenders.

The Physical Address for collection of Tender documents is:

58 Van Eck Place

Mkondeni

Pietermaritzburg

3204

Documents may be collected during work hours after 09h00 on 2017/05/29

A non-refundable tender deposit of R0.00 payable by is required on collection of the Tender documents.

Tender documents are available at no cost in electronic format on CD. Tenderers must have access to MS Office 2007 and Acrobat Adobe 9.0, or similar compatible software

Queries relating to the issues of these documents may be addressed to:

Mike Joubert

Tel No. 0123485880

Fax No. 0123485878

E-mail. mjoubert@gibb.co.za

or

Mr Sanele Ngubane (documents)

Tel No. 0333928100

Fax No. 0333863365

E-mail. ngubanes@nra.co.za

A compulsory clarification meeting with representitives of the Employer will take place at Norfolk House, 1st Floor, 54 Norfolk Terrace, Westville, 3630 on 2017/06/07 starting at 10h00.

The closing time for receipt of Tenders is 14h00 on 26 June 2017.

Telephonic, Telegraphic, Telex, Facsimile, Emailed and Late Tenders will not be accepted.

Tenders may only be submitted on the tender documentation that is issued.

Requirements for sealing, addressing, delivering, opening and assessment of Tenders are stated in the Tender Data.

"AIS"

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Tender Notice and Invitation to Tender

CALL FOR EXPRESSION OF INTEREST:FRAMEWORK CONTRACT FOR THE MOUNT FLETCHER INFRASTRUCTURE PROGRAMME FOR 3 YEARS

Employer Tender Number: ELM-6/016/2016-2017

cidb Reference Number: 100038812

ELUNDINI LOCAL MUNICIPALITY INVITES TENDERS FOR NEC3 ENGINEERING AND CONSTRUCTION FRAMEWORK CONTRACT FOR THE SERVICES OF A MANAGEMENT CONTRACT FOR THE MOUNT FLETCHER INFRASTRUCTURE PROGRAMME FOR 3 YEARS

It is estimated that tenderers should have a cidb contractor grading of 7CE. 6CE Potentially Emerging Enterprises who satisfy criteria stated in the Tender Data may submit Tender offers.

Preferences are offered to tenderers who MINIMUM OF CIDB 6CE PE OR HIGHER

Only tenderers who REGISTRATION WITH NEC 3 ENGINEERING AND CONSTRUCTION CONTRACT AND SAICE,PRE-QUALIFICATION CRITERIA(ONLY B-BBBEE STATUS LEVE 5 OR HIGHER, SUBCONTRACT MINIMUM 30% TO EME OR QSE,AUDITED FINANCIAL STATEMENTS WITHIN 12 MONTHS; 3 CONTACTABLE REFERENCE FOR TOWNSHIP SERVICES TO A VALUE OD R20M DURING LAST 5 YEARS are eligible to submit tenders.

The Physical Address for collection of Tender documents is:

No.1 Seller Street

Maclear

MACLEAR

5480

Documents may be collected during work hours after 09h00 on 2017/05/30

A non-refundable tender deposit of R2,000.00 payable by cash is required on collection of the Tender documents.

deposit at FNB Elundini Local Municipality Cheque Account no. 62159933772 use Ref. No.020114350000

Queries relating to the issues of these documents may be addressed to:

Mr Madoda Sikhosana

Tel No. 063 735 6847

Fax No. 045 932 1094

E-mail. madodas@elundini.gov.za

or

Ms H. Mduzulwana

Tel No. 045 932 8125

Fax No. 0459321094

E-mail. hlubikazi@elundini.gov.za

A compulsory clarification meeting with representitives of the Employer will take place at ELUNDINI MACLEAR OFFICES IN NO.1 SELLERS STREET AT MACLEAR on 2017/06/07 starting at 12h00.

The closing time for receipt of Tenders is 12h00 on 22 June 2017.

Telephonic, Telegraphic, Telex, Facsimile, Emailed and Late Tenders will not be accepted.

Tenders may only be submitted on the tender documentation that is issued.

Requirements for sealing, addressing, delivering, opening and assessment of Tenders are stated in the Tender Data.

8.1 The following table represents the B-BBEE Generic Scorecard

Element	Weighting	Code series reference
Ownership	25 points	100
Management Control	15 points	200
Skills Development	20 points	300
Enterprise and Supplier Development	40 points	400
Socio-Economic Development	5 points	500

8.2 B-BBEE recognition levels

8.2.1 Based on the overall performance of a Measured Entity using the Generic Scorecard and Qualifying Scorecard Enterprise Scorecard, the Measured Entity will receive one of the following B-BBEE Status uses with the corresponding B-BBEE recognition level:

B-BBEE Status	Qualification	B-BBEE recognition level
Level One Contributor	≥ 100 points on the Generic Scorecard	135%
Level Two Contributor	≥ 95 but < 100 points on the Generic Scorecard	125%
Level Three Contributor	≥ 90 but < 95 points on the Generic Scorecard	110%
Level Four Contributor	≥ 80 but < 90 points on the Generic Scorecard	100%
Level Five Contributor	≥ 75 but < 80 points on the Generic Scorecard	80%
Level Six Contributor	≥ 70 but < 75 points on the Generic Scorecard	60%
Level Seven Contributor	≥ 55 but < 70 points on the Generic Scorecard	50%
Level Eight Contributor	≥ 40 but < 55 points on the Generic Scorecard	10%
Non-compliant Contributor	< 40 points on the Generic Scorecard	0%

9. Enhanced recognition for certain categories of black people

9.1 Throughout the Codes, various criteria appear which advance the interests of certain categories of Black people. These include:

9.1.1 Black women, should form between 40% and 50% of the beneficiaries of the relevant Elements of the Scorecard;

9.1.2 Black people with disabilities, Black youth, Black people living in rural areas and Black unemployed people form part of the beneficiaries of the relevant Elements of the Scorecard.