



UMZIMVUBU

LOCAL MUNICIPALITY

ADVERTISING DATE: 29 June 2020

UMZ/2020-21/EMAXESIBENI BUSINESS UNITS (LED & EM)

SUBMISSIONS OF PROPOSALS FOR INTERESTED SMMEs TO OCCUPY BUSINESS UNITS AT EMAXESIBENI TRADING FACILITY

Umzimvubu Local Municipality invites local SMMEs who are interested to occupy vacant Business units at Emaxesibeni Trading Facility to submit proposals.

MANDATORY DOCUMENTS TO BE SUBMITTED FAILURE TO DO SO WILL LEAD TO BE NON RESPONSIVE.

Umzimvubu Local Municipality Supply Chain Management will apply. A valid Original Tax Clearance Certificate or confirmation from SARS with a verification pin, copy of company Registration/Founding Statement/CIPC Documents. Certified BBBEE certificate and a combined BBBEE for a joint venture (non-elimination item). JV Agreement for Joint venture. 80/20 evaluation criteria. Prices quoted must be firm and must be inclusive of VAT for vat vendors. Certified ID Copies of Managing Directors/ Owners. CSD Registration and MBD forms 4,8 and 9 are compulsory submission and Billing Clearance certificate or Statement of Municipal Accounts. Certified copies of Certificates must not be later than 90 days of closing date. **faxed, e-mailed and late tenders will be accepted.** Umzimvubu Local Municipality reserves the right not to appoint and value for money will be the key determinant. All quotation must be deposited in the quotation box situated at **Umzimvubu Local Municipality Offices at SCM office 813 Main Street, Mt Frere** not later than **12h00 noon on 9TH July 2020.** All tenders must be clearly marked "Name of the project or Reference number". All service providers must be registered on CSD and submit proof. The municipality will not make award any award to a person or persons working for the state.

Enquiries: All technical enquiries may be directed to Mr A. Makanda & Mr Mbukushe (SCM Manager) 039 255 8500 Mbukushe.Themba@umzumvubu.gov.za

NB

- Service providers must submit a motivational letter
- Only Suppliers in Umzimvubu Local Municipality area of jurisdiction will be considered

Other enquiries regarding this Bid may be directed to the office of the Municipal Manager:

Attention: Mr G.P.T Nota

813 Main Street or P/Bag X9020

MT FRERE

5090

.....
GPT NOTA (MUNICIPAL MANAGER)



PROVINCE OF THE EASTERN CAPE

SUBMISSIONS OF PROPOSALS FOR INTERESTED SMMES TO OCCUPY VACANT BUSINESS UNITS AT EMAXESIBENI TRADING FACILITY

CONTRACT NO: UMZ/2020-20/EMAXESIBENI BUSINESS UNITS (LED & EM)

PROPOSALS TO BE SUBMITTED TO THE BID BOX PLACED IN THE RECEPTION AREA OF THE UMZIMVUBU LOCAL MUNICIPALITY 813 MAIN STREET, MT FRERE, 5090 BEFORE 12H00 ON 2020

NO LATE SUBMISSIONS WILL BE CONSIDERED

Name of Service Provider

Prepared and Issued by:
Umzimvubu Local Municipality
Local Economic Development & Environmental Management
Erf. 813 Main Street
Private Bag x 9020
Mt Frere
5090
Municipal Manager: Mr. G.P.T. NOTA

Contact Person: Mr M Makanda
Tel: 039 – 255 8541
Fax: 039 255 0167

UMZIMVUBU LOCAL MUNICIPALITY

SUBMISSIONS OF PROPOSALS FOR INTERESTED SMMES TO OCCUPY VACANT BUSINESS UNITS
AT EMAXESIBENI TRADING FACILITY

BID NO.: UMZ/2020-21/EMAXESIBENI BUSINESS UNITS (LED & EM)

TERMS OF REFERENCE

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UMZIMVUBU LOCAL MUNICIPALITY
SUBMISSIONS OF PROPOSALS FOR INTERESTED SMMES TO OCCUPY VACANT BUSINESS UNITS
AT EMAXESIBENI TRADING FACILITY
BID NO.: UMZ/2020-21/EMAXESIBENI BUSINESS UNITS (LED & EM)



ADVERTSMENT INVITATION OF ULM SMMES TO OCCUPY VACANT BUSINESS UNITS AT EMAXESIBENI TRADING FACILITY

UMZIMVUBU
LOCAL MUNICIPALITY

UMZ/2020-20/EMAXESIBENI BUSINESS UNITS (LED & EM) VACANT BUSINESS UNITS AT EMAXESIBENI TRADING FACILITY

Umzimvubu Local Municipality invites credible service providers who are interested to occupy vacant business units at EmaXesibeni Trading Facility (unit 2,9,10 and 13) to submit proposals.

MANDATORY DOCUMENTS TO BE SUBMITTED FAILURE TO DO SO WILL LEAD TO BIDS BEING NON RESPONSIVE.

Umzimvubu Local Municipality Supply Chain Management policy will apply. Confirmation from SARS with a verification pin, certified copy of company Registration/Founding Statement/CIPC Documents. Certified BBBEE certificate and a combined BBBEE/ Sworn Affidavit for a joint venture (non-elimination item). Certified ID Copies of Managing Directors/ Owners. CSD Registration and MBD forms 4, 8 and 9 are compulsory submission and Billing Clearance certificate or Statement of Municipal Accounts. Certified copies of Certificates must not be later than 90 days of closing date. **Faxed, e-mailed and late tenders will be accepted.** Umzimvubu Local Municipality reserves the right not to appoint and value for money will be the key determinant. All proposals must be deposited in the quotation box situated at **Umzimvubu Local Municipality** Offices at SCM office **813 Main Street, Mt Frere** not later than **9th July 2020 at 12h00** noon on, where they will be opened in public. All proposals must be clearly marked "Name of the project or Reference number". All service providers must be registered on CSD and submit proof.

Any person who is working in the organ of shall not participate in the Incubator programme.

IMPORTANT NOTE

1. Service Providers with a certified CK document with an address from Kwa- Bhaca & EmaXesibeni will be considered.
2. Service providers must submit a motivational letter.

Enquiries: All technical enquiries may be directed to Mr A Makanda 039 255 8541 (Assistant Manager LED&EM)/ Mr T. Mbukushe (SCM Manager) 039 255 8555

Other enquiries regarding this Bid may be directed to the office of the Municipal Manager:

Attention: Mr G.P.T Nota

813 Main Street or P/Bag X9020

MT FRERE

5090

.....

GPT NOTA

UMZIMVUBU LOCAL MUNICIPALITY

SUBMISSIONS OF PROPOSALS FOR INTERESTED SMMES TO OCCUPY VACANT BUSINESS UNITS
AT EMAXESIBENI TRADING FACILITY

BID NO.: UMZ/2020-21/EMAXESIBENI BUSINESS UNITS (LED & EM)

(MUNICIPAL MANAGER)

1. Program Description and Objectives

- Ensure that the buildings and property owned by the Municipality are utilised appropriately for the benefit of all
- To gain access to market and clients
- To create jobs for local people
- To create a conducive environment for local SMMEs to trade
- Identifying and creating viable hubs for business activity;
- Link to range of facilities such as business support service;

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AT EMAXESIBENI TRADING FACILITY

BID NO.: UMZ/2020-21/EMAXESIBENI BUSINESS UNITS (LED & EM)

MBD FORM 1

INVITATION TO BID

UMZIMVUBU LOCAL MUNICIPALITY
SUBMISSIONS OF PROPOSALS FOR INTERESTED SMMES TO OCCUPY VACANT BUSINESS UNITS
AT EMAXESIBENI TRADING FACILITY
BID NO.: UMZ/2020-21/EMAXESIBENI BUSINESS UNITS (LED & EM)

MBD 1

INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF MUNICIPALITY/ENTITY)

BID NUMBER: UMZ/2020-21/LED&EM CLOSING DATE: 09/07/2020 CLOSING TIME: 12H00.

DESCRIPTION: SUBMISSIONS OF PROPOSALS FOR INTERESTED SMMES TO OCCUPY VACANT BUSINESS UNITS AT
EMAXESIBENI TRADING FACILITY

The successful bidder will be required to fill in and sign a written Contract Form (MBD 7).

BID DOCUMENTS MAY BE POSTED TO:

MUNICIPAL MANAGER
UMZIMVUBU LOCAL MUNICIPALITY
PRIVATE BAG X 9020
MOUNT FRERE
5090

CLEARLY STATE ON TOP THE ENVELOPE THE NAME: **VACANT BUSINESS UNITS**
OR

DEPOSITED IN THE BID BOX SITUATED AT (*STREET ADDRESS*)

UMZIMVUBU LOCAL MUNICIPALITY OFFICE, 813 MAIN STREET, MOUNT FRERE, 5090, RECEPTION AREA

Service Provider should ensure that proposals are delivered timeously to the correct address. If the proposal is late, it will not be accepted for consideration.

The bid box is generally open 24 hours a day, 7 days a week with the assistance of municipal officials / security personnel.

ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS – (NOT TO BE RE-TYPED)

THIS PROPOSAL IS SUBJECT TO THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT / APPLICABLE LEGISLATION

THIS BID WILL BE EVALUATED AND ADJUDICATED ACCORDING TO THE FOLLOWING CRITERIA:

1. Submissions of all required documents
2. Value for money
3. PPPFA & associated regulations

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SUBMISSIONS OF PROPOSALS FOR INTERESTED SMMES TO OCCUPY VACANT BUSINESS UNITS
AT EMAXESIBENI TRADING FACILITY
BID NO.: UMZ/2020-21/EMAXESIBENI BUSINESS UNITS (LED & EM)

**NB: NO PROPOSALS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE
(see definition on MBD 4 attached)**

**THE FOLLOWING PARTICULARS MUST BE FURNISHED (FAILURE TO DO SO MAY RESULT IN
YOUR PROPOSALS BEING DISQUALIFIED)**

NAME OF THE SERVICE PROVIDER.....

POSTAL ADDRESS.....

STREET ADDRESS.....

TELEPHONE NUMBER CODE.....NUMBER.....

CELLPHONE NUMBER
.....

FACSIMILE NUMBER CODE.....NUMBER.....

VAT REGISTRATION NUMBER.....

HAS AN ORIGINAL TAX CLEARANCE CERTIFICATE BEEN ATTACHED (MBD 2)? YES/NO

ARE YOU THE ACCREDITED REPRESENTATIVE
IN SOUTH AFRICA FOR THE GOODS/SERVICES OFFERED BY YOU? YES/NO
(IF YES ENCLOSE PROOF)

SIGNATURE OF SERVICE PROVIDER

DATE.....

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

TOTAL NUMBER OF ITEMS OFFERED.....

ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:

Municipality / Municipal Entity: UMZIMVUBU LOCAL MUNICIPALITY

Department: BUDGET & TREASURY: SCM UNIT

Contact Person: Ms N. Duze

Tel: 039 255 8500

Fax: 039 255 0167

ANY REQUIRIES REGARDING TECHNICAL INFORMATION MAY BE DIRECTED TO:

Contact Person: Mr A. Makanda

Tel: 039 255 8541

Fax: 039 255 0167

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BID NO.: UMZ/2020-21/EMAXESIBENI BUSINESS UNITS (LED & EM)

MBD FORM 4 DECLARATION OF INTEREST

MBD 4

DECLARATION OF INTEREST

1. No bid will be accepted from persons in the service of the state*.
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority and/or take an oath declaring his/her interest.

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

- 3.1 Full Name:
- 3.2 Identity Number:
- 3.3 Company Registration Number:
- 3.4 Tax Reference Number:
- 3.5 VAT Registration Number:

3.6 Are you presently in the service of the state* **YES / NO**

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

- (a) a member of –
 - (i) any municipal council;
 - (ii) any provincial legislature; or
 - (iii) the national Assembly or the national Council of provinces;
- (b) a member of the board of directors of any municipal entity;
- (c) an official of any municipality or municipal entity;
- (d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
- (e) a member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature.

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3.6.1 If so, furnish particulars.

.....

3.7 Have you been in the service of the state for the past
Twelve months?

YES / NO

3.7.1 If so, furnish particulars.

.....

.....

3.8 Do you, have any relationship (family, friend, other) with
persons in the service of the state and who may be
involved with the evaluation and or adjudication of this bid?

YES / NO

3.8.1 If so, furnish particulars.

.....

.....

3.9 Are you, aware of any relationship (family, friend, other)
between a bidder and any persons in the service of the
state who may be involved with the evaluation and or
adjudication of this bid?

YES / NO

3.9.1 If so, furnish particulars

.....

.....

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3.10 Are any of the company's directors, managers, principle Shareholders or stakeholders in service of the state?

YES / NO

3.10.1 If so, furnish particulars.

.....

.....

3.11 Are any spouse, child or parent of the company's directors, managers, principle shareholders or stakeholders in service of the state?

YES / NO

3.11.1 If so, furnish particulars.

.....

.....

CERTIFICATION

I, THE UNDERSIGNED (NAME)

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

I ACCEPT THAT THE MUNICIPALITY MAY ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of Service Provider

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AT EMAXESIBENI TRADING FACILITY

SCHEDULE 1: COMPULSORY ENTERPRISE QUESTIONNAIRE

The following particulars must be furnished. In the case of a joint venture, separate enterprise questionnaires in respect of each partner must be completed and submitted.

Section 1: Name of enterprise:

Address of enterprise:

Postal:

.....

Physical:

.....

Telephone:

.....

Facsimile:

.....

E-mail:

Section 2: VAT registration number, if any:

Section 3: CIDB registration number, if any:

Section 4: Particulars of sole proprietors and partners in partnerships

Name*	Identity number*	Personal income tax number*

* Complete only if sole proprietor or partnership and attach separate page if more than 3 partners

Section 5: Particulars of companies and close corporations

(Attach a certified copy of the company/companies founding statement(s) to this page)

Company registration number

Close corporation number

Tax reference number

SIGNED ON BEHALF OF SERVICE PROVIDER:

POINT SCORING / ALLOCATIONS OF POINTS

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F.3.11.2 Scoring Financial Offers

Add the following:

The financial offer will be scored using **Formula 2 (Option 1)** where a maximum of 80 or 90 points is allocated on the following basis:

80/20 **or** **90/10**

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

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

Where

- P_s = Points scored for comparative price of bid under consideration
- P_t = Comparative price of bid under consideration
- P_{min} = Comparative price of lowest acceptable bid

Add the following new sub clause:

F.3.11.4 Scoring Preference

1. Points awarded for B-BBEE Status Level of Contribution

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

B-BBEE Status Level of Contributor	Number of points (80/20 system)
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- b. Bidders who qualify as EME's in terms of the B-BBEE Act must submit a certificate issued by an Accounting Officer as contemplated in the Closed Corporation Act or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EME's with B-BBEE Status Level Certificates.
- c. Bidders other than EME's must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- d. trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits its B-BBEE status level certificate.

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- e. A trust, consortium or joint venture will qualify for points for its B-BBEE status level as an unincorporated entity, provided that the entity submits its consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- f. Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- g. A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- h. A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

2. BID DECLARATION

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

3 B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 2.1.

- a. B-BBEE Status Level of Contribution: _____ = _____ (maximum of 10 or 20 points).

(Points claimed in respect of paragraph 3.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the CCA).

4 DECLARATION WITH REGARD TO COMPANY/FIRM

- a. Name of company/firm: _____
- b. VAT registration number: _____
- c. Company registration number _____

d. TYPE OF COMPANY/ FIRM

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

(TICK APPLICABLE BOX)

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e. DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

f. COMPANY CLASSIFICATION

- Manufacturer
- Supplier
- Other service providers, e.g. transporter, etc.
(TICK APPLICABLE BOX)

g. TOTAL NUMBER OF YEARS THE COMPANY HAS BEEN IN BUSINESS? _____

h. I/we, the undersigned, who is/are duly authorized to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in paragraph 7 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I/we acknowledge that:

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

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WITNESSES:

1. _____

2. _____

SIGNATURE(S) OF SERVICE PROVIDER

DATE: ____/____/20__

ADDRESS: _____

MBD 8

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

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

Item Question

Yes No

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4.1	<p>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?</p> <p>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p>The Database of Restricted Suppliers now resides on the National Treasury's website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	<p>Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</p> <p>The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	<p>Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
Item	Question	Yes	No
4.4	<p>Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		
4.5	<p>Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.7.1	If so, furnish particulars:		

CERTIFICATION

**I, THE UNDERSIGNED (FULL NAME)
CERTIFY THAT THE INFORMATION FURNISHED ON THIS
DECLARATION FORM TRUE AND CORRECT.**

**I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT,
ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION
PROVE TO BE FALSE.**

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

Js367bW

MBD 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Municipal Bidding Document (MBD) must form part of all bids¹ invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
 - a. take all reasonable steps to prevent such abuse;
 - b. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and

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- c. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
- 4 This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

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

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

MBD 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Municipality / Municipal Entity)

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

I certify, on behalf of: _____ that:

(Name of Bidder)

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

MBD 9

6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or

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(f) bidding with the intention not to win the bid.

8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

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

MBD 9

10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

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Signature

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Date

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Position

.....
Name of Bidder

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