Ga-Segonyana Local Municipality

INVITATION TO BID

GAS: Q02/2020-21

SUPPLY, DELIVERY AND INSTALLATION OF AIR CONDITIONERS

Bidder : _____

_____

Address : _____

_____

Contact Numbers _____

Amount (Vat Inc) _____

Issued by:

Ga-Segonyana Local Municipality
Private Bag X1522
Cnr Voortrekker & School Street
KURUMAN
8460
053 712 9300 (Tel)
053 712 3584 (Fax)

Closing Date : 31 July 2020
Time : 12H00

Ga-Segonyana Local Municipality
GAS: Q02/2020-21
Supply, Delivery and Installation of Air Conditioners

Invitation/ Supplier Checklist

No.	Document Type	Tick √
01	Cover page	
02	Advert	
03	MBD 1 Form	
04	MBD 3 Form	
05	MBD 4 Form	
06	MBD 6 Form	
07	MBD 7 Form	
08	MBD 8 Form	
09	MBD 9 Form	
10	General and Special Condition of a Contract	
11	Preferential Procurement Policy Framework Act	
12	B-BBEE Status Level Certificate	
13	Business Profile	
14	Tax Compliance Status (**TCS** – with a pin)	
15	Company Registration Document	
16	CSD Registration Report	
17	Proof of Registration with Licenses relevant to the industry (**Where applicable**)	
18	Certified Copy of Identity Documents (**Directors**)	
19	Joint Venture Agreement (**If Bidder is a Joint Venture**)	

Ga-Segonyana Local Municipality

INVITATION TO BID

GAS: Q02/2020-21

SUPPLY, DELIVERY AND INSTALLATION OF AIR CONDITIONERS

ADVERT

GA-SEGONYANA MUNICIPALITY

Private Bag X1522
Kuruman
8460
www.ga-segonyana.gov.za

INVITATION TO BID
GAS: Q02/2020-21
SUPPLY, DELIVERY AND INSTALLATION OF AIR CONDITIONERS

Bids (**in a form of Quotations**) are hereby invited from professional service providers with requisite capacity to provide the aforementioned services and/or goods for the municipality.

Specifications:
The bidder shall supply, deliver and install the following:

Qty	Item Descriptions	Specifications
05	*Air Conditioners*	*12 000 BTU Split Air* *04 cooling/heating models [non-inverter* *"Fast Mode" for rapid cooling/heating* *Energy-saving 'Good Sleep' mode* *Full HD filter with multiple purification - removes even the tiniest microscopic airborne particle* *"Auto Clean" function that ensures unit always stays dry inside - keeps air fresher and cleaner* *12000Btu/h* *Remote Control & Manual*
01	*Air Conditioner*	*18 000 BTU Split Air* *B Energy efficiency rating* *Elegant panel design, with LED display.* *Golden Fin* *Timer function* *R410A Refrigerant* *Low Noise Airflow System* *Quick Cooling/Heating* *Self-Cleaning, Sleep Mode* *Auto-Restart* *Non-Inverter*

The above air conditioners must have the following:
Indoor Unit
Outdoor Unit
Wall mounting Screw & Bolts Kit (Indoor)
Installation Plate (Indoor)Additional Draining Hose
Remote Control
Manual
Bandage Tape (Outdoor)
3m Copper Pipe Unit (Outdoor)

Bids clearly marked "**GAS: Q02/2020-21 "SUPPLY, DELIVERY AND INSTALLATION OF AIR CONDITIONERS"** must be placed in the bid box of the Municipality on or before the **31 JULY 2020** at **12H00.** The lowest or any bidder will not necessarily be accepted and Council reserves the right to consider any other Bid not suitably endorsed or comprehensively completed, as well as the right to accept a bid in whole or in part.

Bids will be evaluated and adjudicated in terms of the Municipality's Supply Chain Management Policy and other statutory Regulations governing the Supply Chain of the Municipality. Bids will be evaluated on the **80/20 Points basis**, where **80 points**

Bids MUST be submitted in a bid document as provided for by the municipality. The document is downloadable from the municipal website www.ga-segonyana.gov.za. Only bids submitted in the bid document will be considered.

NOTE: MBD Forms (which forms part of the bid document) must be completed in full and be duly signed, failure to do this will result in the bidder being considered non-responsive.

Technical enquiries may be directed to **Mr. T. Lekoma** on **053 712 9331** and SCM enquiries to **Mr. B. Sechogela** on **053 712 9344** during office hours.

M. M. TSATSIMPE
MUNICIPAL MANAGER

Cnr Voortrekker and School Street
Ga-Segonyana Local Municipality Building
KURUMAN
8460

Ga-Segonyana Local Municipality

INVITATION TO BID

GAS: Q02/2020-21

SUPPLY, DELIVERY AND INSTALLATION OF AIR CONDITIONERS

MBD1

GA-SEGONYANA
LOCAL MUNICIPALITY
MBD 1

PART A

INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (GA-SEGONYANA LOCAL MUNICIPALITY)					
BID NUMBER:	**GAS: Q02/2020-21**	CLOSING DATE:	**31 JULY 2020**	CLOSING TIME:	**12H00**
DESCRIPTION	**SUPPLY, DELIVERY AND INSTALLATION OF AIR CONDITIONERS**				
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).					

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

Ga-Segonyana Local Municipality Main Building
Cnr Voortrekker and School Street
Kuruman
8460

SUPPLIER INFORMATION						
NAME OF BIDDER						
POSTAL ADDRESS						
STREET ADDRESS						
TELEPHONE NUMBER	CODE			NUMBER		
CELLPHONE NUMBER						
FACSIMILE NUMBER	CODE			NUMBER		
E-MAIL ADDRESS						
VAT REGISTRATION NUMBER						
TAX COMPLIANCE STATUS	TCS PIN:		**OR**	CSD No:		
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	☐ Yes ☐ No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	☐ Yes ☐ No		
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]						

ARE YOU THE ACCREDITED REPRESENTATIVE **IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?**	☐Yes ☐No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR **THE GOODS /SERVICES /WORKS OFFERED?**	☐Yes ☐No [IF YES, ANSWER PART B:3]
TOTAL NUMBER OF ITEMS OFFERED		**TOTAL BID PRICE**	**R**
SIGNATURE OF BIDDER	.....	**DATE**	
CAPACITY UNDER WHICH THIS BID IS SIGNED			

BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:		**TECHNICAL INFORMATION MAY BE DIRECTED TO:**	
DEPARTMENT	FINANCE	CONTACT PERSON	TIDIMALO LEKOMA
CONTACT PERSON	BOITUMELO SECHOGELA	TELEPHONE NUMBER	053 712 9331
TELEPHONE NUMBER	053 712 9344	FACSIMILE NUMBER	053 712 3581
FACSIMILE NUMBER	053 712 3518	E-MAIL ADDRESS	
E-MAIL ADDRESS			

PART B
TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:

1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS **WILL NOT BE** ACCEPTED FOR CONSIDERATION.

1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE**

1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.

2. TAX COMPLIANCE REQUIREMENTS

2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.

2.2 **BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.**

2.3 APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.

2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.

2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.

2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.

2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.

3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? ☐ YES ☐ NO

3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA? ☐ YES ☐ NO

3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? ☐ YES ☐ NO

3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? ☐ YES ☐ NO

3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? ☐ YES ☐ NO

IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.

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

SIGNATURE OF BIDDER: .....

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

DATE: .....

Ga-Segonyana Local Municipality

INVITATION TO BID

GAS: Q02/2020-21

SUPPLY, DELIVERY AND INSTALLATION OF AIR CONDITIONERS

MBD 3.1

PRICING SCHEDULE – FIRM PRICES (PURCHASES)

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

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

Name of Bidder.....	Bid Number: GAS: Q02/2019-20
Closing Time: 12H00	Closing Date: 31 July 2020

OFFER TO BE VALID FOR **60 DAYS** FROM THE CLOSING DATE OF BID

ITEM NO.	QUANTITY	DESCRIPTION	BID PRICE IN RSA CURRENCY (INCLUDING VAT)
01	01	Air Conditioners 12 000 BTU Split Air Secretary – Corporate Services Department	R
02	01	Air Conditioners 12 000 BTU Split Air IT Manager – Office	R
03	01	Air Conditioners 12 000 BTU Split Air IT Officers – Office	R
04	01	Air Conditioners 12 000 BTU Split Air IT Manager - Office	R
05	01	Air Conditioners 12 000 BTU Split Air Proof of Residence - Office	R
06	01	Air Conditioners 18 000 BTU Split Air Director Community Services - Office	R

IT IS THE RESPONSIBILITY OF THE PROSPECTIVE SUPPLIER TO VISIT THE OFFICE TO TAKE MEASUREMENT FOR THE INSTALLATION OF THE AIR CONS. ARRANGEMENT MUST BE MADE WITH THE OFFICE OF SCM FOR OFFICE VISITS.

-	Required by:	.....
-	At:	.....
-	Brand and Model	.....
-	Country of Origin	.....
-	Does offer comply with specification?	YES/NO
-	If not to specification, indicate deviation(s)	.....
-	Period required for delivery	..... Delivery: Firm/not firm
-	Delivery basis (all delivery costs must be included in the bid price)	.....

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

THE BIDDER IS REQUESTED TO PROVIDE A **QUOTATION** FOR THE ABOVE-MENTIONED PRODUCTS IN THE **COMPANY'S LETTER HEAD** VALID FOR A PERIOD OF **60 DAYS**. THIS MUST BE DONE SEPARATELY FROM THE MBD 3.1. AND THIS DOES NOT WAVE AWAY THE RESPONSIBILITY TO PROVIDE PRICES FOR THE ABOVE-MENTIONED PRODUCTS.

Ga-Segonyana Local Municipality

INVITATION TO BID

GAS: Q02/2020-21

SUPPLY, DELIVERY AND INSTALLATION OF AIR CONDITIONERS

MBD 4

GA-SEGONYANA MUNICIPALITY **MBD 4**
DECLARATION OF INTEREST

1. No bid will be accepted from persons in the service of the state[1].

2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority.

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

3.1 Full Name of bidder or his or her representative:.....

3.2 Identity Number: .....

3.3 Position occupied in the Company (director, trustee, hareholder[2]):.....

3.4 Company Registration Number: .....

3.5 Tax Reference Number:.....

3.6 VAT Registration Number: .....

3.7 The names of all directors / trustees / shareholders members, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below.

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

3.8.1 If yes, furnish particulars.....

.....

[1]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.

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

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

3.9.1 If yes, furnish particulars.....

.....

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

YES / NO

3.10.1 If yes, furnish particulars.

.....

.....

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

YES / NO

3.11.1If yes, furnish particulars

.....

.....

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

3.12.1. If yes, furnish particulars.

.....

.....

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

3.13.1 If yes, furnish particulars.

.....

.....

3.14 Do you or any of the directors, trustees, managers, principle shareholders, or stakeholders of this company have any interest in any other related companies or business whether or not they are bidding for this contract. **YES / NO**

3.14.1 If yes, furnish particulars:

.....

.....

4. Full details of directors / trustees / members / shareholders.

Full Name	Identity Number	State Employee Number

.....
Signature

.....
Date

.....
Capacity

.....
Name of Bidder

Ga-Segonyana Local Municipality

INVITATION TO BID

GAS: Q02/2020-21

SUPPLY, DELIVERY AND INSTALLATION OF AIR CONDITIONERS

MBD 6.1

MBD 6.1

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017

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

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.

---

1. GENERAL CONDITIONS

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

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

1.2

a) The value of this bid is estimated to exceed/not exceed R50 000 000 (all applicable taxes included) and therefore the ..... preference point system shall be applicable; or

b) Either the 80/20 or 90/10 preference point system will be applicable to this tender (*delete whichever is not applicable for this tender*).

1.3 Points for this bid shall be awarded for:

(a) Price; and

(b) B-BBEE Status Level of Contributor.

1.4 The maximum points for this bid are allocated as follows:

	POINTS
PRICE	
B-BBEE STATUS LEVEL OF CONTRIBUTOR	
Total points for Price and B-BBEE must not exceed	**100**

1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

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

2. DEFINITIONS

(a) **"B-BBEE"** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

(b) "**B-BBEE status level of contributor"** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

(c) **"bid"** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;

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

(e) "EME" means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;

(f) **"functionality"** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.

(g) **"prices"** includes all applicable taxes less all unconditional discounts;

(h) **"proof of B-BBEE status level of contributor"** means:

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

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

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

(i) **"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;

(j) **"rand value"** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

3. POINTS AWARDED FOR PRICE

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

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

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

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

Where

Ps = Points scored for price of bid under consideration

Pt = Price of bid under consideration

Pmin = Price of lowest acceptable bid

4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

4.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

5. BID DECLARATION

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

6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

6.1 B-BBEE Status Level of Contributor: . = ...(maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

7. SUB-CONTRACTING

7.1 Will any portion of the contract be sub-contracted?

(***Tick applicable box***)

YES		NO	

7.1.1 If yes, indicate:

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

YES		NO	

v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations,2017:

Designated Group: An EME or QSE which is at last 51% owned by:	EME √	QSE √
Black people		
Black people who are youth		
Black people who are women		

Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
OR		
Any EME		
Any QSE		

8. **DECLARATION WITH REGARD TO COMPANY/FIRM**

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

8.6 COMPANY CLASSIFICATION

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

[*TICK APPLICABLE BOX*]

8.7 **MUNICIPAL INFORMATION**

Municipality where business is situated: .....

Registered Account Number: .....

Stand Number:.....

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

8.9 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

i) The information furnished is true and correct;

ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;

iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;

iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –

(a) disqualify the person from the bidding process;

(b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;

(c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;

(d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and

(e) forward the matter for criminal prosecution.

WITNESSES 1. ..... 2.	..... SIGNATURE(S) OF BIDDERS(S) DATE: ..... ADDRESS ....

Ga-Segonyana Local Municipality

INVITATION TO BID

GAS: Q02/2020-21

SUPPLY, DELIVERY AND INSTALLATION OF AIR CONDITIONERS

MBD 7.1

CONTRACT FORM - PURCHASE OF GOODS/WORKS

THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SUCCESSFUL BIDDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SUCCESSFUL BIDDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.

PART 1 (TO BE FILLED IN BY THE BIDDER)

1. I hereby undertake to supply all or any of the goods and/or works described in the attached bidding documents to (name of institution)..... in accordance with the requirements and specifications stipulated in bid number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the purchaser during the validity period indicated and calculated from the closing time of bid.

2. The following documents shall be deemed to form and be read and construed as part of this agreement:

   (i) Bidding documents, *viz*
   - Invitation to bid
   - Tax clearance certificate
   - Pricing schedule(s)
   - Technical Specification(s)
   - Preference claims in terms of the Preferential Procurement Regulations 2001
   - Declaration of interest
   - Special Conditions of Contract;

   (ii) General Conditions of Contract; and

   (iii) Other (specify)

3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the goods and/or works specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.

4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.

5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.

6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT) .....

CAPACITY .....

SIGNATURE .....

NAME OF FIRM .....

DATE .....

WITNESSES

1 .....

2. .....

DATE: .....

MBD 7.1

CONTRACT FORM - PURCHASE OF GOODS/WORKS

PART 2 (TO BE FILLED IN BY THE PURCHASER)

1. I..... in my capacity as..... accept your bid under reference number .....dated.....for the supply of goods/works indicated hereunder and/or further specified in the annexure(s).

2. An official order indicating delivery instructions is forthcoming.

3. I undertake to make payment for the goods/works delivered in accordance with the terms and conditions of the contract, within 30 (thirty) days after receipt of an invoice accompanied by the delivery note.

ITEM NO.	PRICE (VAT INCL)	BRAND	DELIVERY PERIOD	POINTS CLAIMED FOR HDI'S	POINTS CLAIMED FOR RDP GOALS

4. I confirm that I am duly authorized to sign this contract.

SIGNED AT .....ON.....

NAME (PRINT) .....

SIGNATURE .....

OFFICIAL STAMP

WITNESSES

1. .....

2. .....

DATE .....

Ga-Segonyana Local Municipality

INVITATION TO BID

GAS: Q02/2020-21

SUPPLY, DELIVERY AND INSTALLATION OF AIR CONDITIONERS

MBD 8

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

1 This Municipal Bidding Document must form part of all bids invited.

2 It serves as a declaration to be used by municipalities and municipal entities in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.

3 The bid of any bidder may be rejected if that bidder, or any of its directors have:

a. abused the municipality's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;
b. been convicted for fraud or corruption during the past five years;
c. willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
d. been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

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

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury's database as a company or person prohibited from doing business with the public sector? **(Companies or persons who are listed on this database were informed in writing of this restriction by the National Treasury after the *audi alteram partem* rule was applied).**	Yes ☐	No ☐
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? **(To access this Register enter the National Treasury's website, www.treasury.gov.za, click on the icon "Register for Tender Defaulters" or submit your written request for a hard copy of the Register to facsimile number (012) 3265445).**	Yes ☐	No ☐
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes ☐	No ☐

4.3.1	If so, furnish particulars:

Item	Question	Yes	No
4.4	Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes ☐	No ☐
4.4.1	If so, furnish particulars:		
4.5	Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes ☐	No ☐
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

Ga-Segonyana Local Municipality

INVITATION TO BID

GAS: Q02/2020-21

SUPPLY, DELIVERY AND INSTALLATION OF AIR CONDITIONERS

MBD 9

MBD 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

1 This Municipal Bidding Document (MBD) must form part of all bids[1] invited.

2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).[2] Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.

3 Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:

a. take all reasonable steps to prevent such abuse;

b. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and

c. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.

4 This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.

5 In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

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

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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

_____

(Bid Number and Description)

in response to the invitation for the bid made by:

_____

(Name of Municipality / Municipal Entity)

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

I certify, on behalf of:_____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:

    (a) has been requested to submit a bid in response to this bid invitation;
    (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
    (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium[3] will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
    (a) prices;
    (b) geographical area where product or service will be rendered (market allocation)
    (c) methods, factors or formulas used to calculate prices;
    (d) the intention or decision to submit or not to submit, a bid;
    (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
    (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

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

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

.....	.....
Signature	Date
.....	.....
Position	Name of Bidder

Ga-Segonyana Local Municipality

INVITATION TO BID

GAS: Q02/2020-21

SUPPLY, DELIVERY AND INSTALLATION OF AIR CONDITIONERS

GENERAL & SPECIAL CONDITIONS OF A CONTRACT

A. **GENERAL CONDITIONS OF THE BID**

1) **Municipality/Council**
Unless specifically indicated otherwise, municipality/council means the **Ga-Segonyana Local Municipality**.

2) **BIDS**
Bids must be submitted on the enclosed Bid Document. Bids will not be considered if Bid Documents are not properly completed and signed.

3) **Period of validity**
Bids shall be valid for a period of **SIXTY (60) days** from the date of the closure of Bids. Council reserves the right to accept any Bid or portion of Bid within the above period.

4) **Telegraphic/electronic Bids**
Bids received by telegram, telex, or facsimile will **NOT** be considered.

5) **Bids Received Late**
Bids received after the closing time and date will **NOT** be considered.

6) **Withdrawal of Bids**
It is an express condition that **No Bid Submitted Shall Be Withdrawn**. Signing of the Bid form creates a binding and non-retractable offer that may not be unilaterally withdrawn.

7) **Acceptance or Non-Acceptance of Bids**
Council is not bound to accept the lowest Bid, the only Bid, or any Bid; Council reserves the right to accept any Bid or portion of any Bid. In the instance of non-acceptance of Bids, it is not necessary for Council to give reasons.

8) **DELIVERY DATE**
Delivery (period and place)
Bidders will confirm delivery of Tendered items on the Bid form, at the place indicated.
The place of delivery shall be the office of the Ga-Segonyana Municipality at:
Cnr Voortrekker and School Street
Municipal Building
KURUMAN
8460

9) **Execution**
The Bidder hereby undertakes to take the necessary steps to ensure the execution of the Bid, upon the written notification of the acceptance of the Bid. If the Bidder fails to comply with the conditions of the Bid, Council is hereby authorised to cancel the contract after four weeks of written notification and Council will not be liable for any costs/expenses incurred by the Bidder. The afore-mentioned cancellation will be without jeopardising any of the rights of the municipality, or the right of the municipality to damages.

10) **Warranty**
All items that are found defective or not correct within one year of the date of delivery, will be replaced, repaired or corrected by the Bidder at his/her own costs, to the satisfaction of Council.

11) **Material**
All the material to be used must conform to the Specifications.

12) **Exemption**
The successful Bidder exempts Council from any steps, action, claims and losses that might originate from this contract.

13) **Compliance to legislation**
The successful Bidder undertakes to comply with all legislation, ordinances, regulations or any stipulation applicable to this contract.

14) **Price increases**
The price will be fixed for the period indicated in three (3) above, unless specifically indicated otherwise by the Bidder.

15) **Sub-Contractors**
Council will not deal with any sub-contractors. The original contractor will be held accountable in all instances.

16) **Bid form**
A Bid will **NOT** be considered if the Bid form is not signed and completed properly. Clause 18 of this document is also applicable in this regard.

17) **Validity of contract**
This Bid document is deemed to be a binding contract within the Republic of South Africa and is subject to the legislation of the land and the jurisdiction of its courts. The contract will commence only upon the provision of a contract by the Ga-Segonyana Municipality to the successful Bidder.

18) **Bid document**
No part of this Bid document may be loosened or separated. Bid documents that are not returned in full will not be considered.

19) **Payments**
Payments will be done in a South African currency at the head office of the municipality, **Cnr Voortrekker and School Street, Municipal Building, Kuruman, 8460**, after the Tendered goods are received in a satisfactory condition and certified as such by the responsible official and upon receipt of an invoice. Payment does not imply that Council waives any of its rights in terms of this contract.

SPECIFICATIONS:

A. SCOPE OF WORK

The bidder shall supply, deliver and install the following:

Qty	Item Descriptions	Specifications
05	*Air Conditioners*	*12 000 BTU Split Air* *04 cooling/heating models [non-inverter* *"Fast Mode" for rapid cooling/heating* *Energy-saving 'Good Sleep' mode* *Full HD filter with multiple purification - removes even the tiniest microscopic airborne particle* *"Auto Clean" function that ensures unit always stays dry inside - keeps air fresher and cleaner* *12000Btu/h* *Remote Control & Manual*
01	*Air Conditioner*	*18 000 BTU Split Air* *B Energy efficiency rating* *Elegant panel design, with LED display.* *Golden Fin* *Timer function* *R410A Refrigerant* *Low Noise Airflow System* *Quick Cooling/Heating* *Self-Cleaning, Sleep Mode* *Auto-Restart* *Non-Inverter*

The above air conditioners must have the following:
Indoor Unit
Outdoor Unit
Wall mounting Screw & Bolts Kit (Indoor)
Installation Plate (Indoor)Additional Draining Hose
Remote Control
Manual
Bandage Tape (Outdoor)
3m Copper Pipe Unit (Outdoor)

B. CONFIDENTIALITY

1. The information contained in this document is of a confidential nature, and may only be used for purposes of responding to this bid request. This confidentially clause extends to Vendor partners and / or implementation agents, whom the Bidder may decide to involve in preparing a response to this bid request.

2 The prospective bidder shall take all such steps as may be reasonably necessary to prevent the Ga-Segonyana Municipality's confidential information from coming into the possession of unauthorised third parties. In protecting the proactive bidder's confidential information, the Municipality shall use the same degree of care, but no less than a reasonable degree of care, to prevent, the unauthorised use or disclosure of the confidential information as the prospective bidders uses to protect its own confidential information.

C. PREVIOUS EXPERIENCE

Bidder will indicate previous experience of dealing in **supply and instillation of air cons** as requested by the municipality in the space provided at Bullet G below.

D. COMPANY PROFILE AND CAPACITY

Bidders are expected to provide an overview of their companies. The said overview must be in a form of a **company profile** which must indicate the capacity of the company to execute the job on hand.

E. INTERVIEWS WITH BIDDERS

The Municipality reserves the right to interview bidders before and / or bids are / or after bids are awarded in order to discuss methods and approaches.

F. LIST OF RETURNABLE

Kindly make sure the following documentation is attached:

- License relevant to the industry (if applicable)
- Safety requirements documentation relevant to the industry (if applicable)
- Tax Compliance Certificate (TCS with a pin) certificate
- Certified Copy of Identity Documents
- Joint Venture Agreement (If Bidder is a Joint Venture)
- CSD Registration Report

G. WORKS PREVIOUSLY EXECUTED (RELATED AIR CONS INSTALLATIONS AND SUPPLY)

- The following is a statement of major works successfully executed by myself/ my entity in recent years (**Related Air Cons Installations And Supply).**
- Failure to detail the required information shall signify that the Bid is submitted by an inexperienced Bidder.

Employer	Contract Number	Contract Value	Contract Period

H. CURRENT COMMITMENTS (Related Air Cons Installations And Supply)

Employer	Contract Number	Contract Value	Contract Period

SPECIAL CONDITIONS:

1. Employer

- The employer is **Ga-Segonyana Local Municipality**

2. Address

The Address of the employer is:

Ga-Segonyana Local Municipality
Private Bag X1522
KURUMAN
8460
Cnr Voortrekker and School Street
Municipal Building
KURUMAN
8460
053 712 9300 (Tel)
053 712 3581 (Fax)

3. Scope

- Bids are hereby invited for the **Air Cons Installations And Supply services.**
  See specifications above.

4. Objective

- To provide the municipality with the standard goods and services to enable the Municipality to carry out its mandate of Service Delivery.

5. Transfer and Cession

- The preferred bidder shall render the services himself and the use of subcontractors will **NOT** be allowed without prior written permission.
- The preferred bidder **SHALL NOT** cede, transfer, sell or alienate in any way the contract or any part thereof to any person or company without obtaining prior written permission thereto, provided the cessionary complies with the requirements of this contract.

6. Breach and Termination

- Should either party commit or breach the provisions of this contract or fail to remedy any breach(es) within **14 (fourteen) days** after the receipt of written complaint, the party that is not in default shall be entitled to cancel this contract per written notice delivered to the other party's domicillum citandi et executandi as per bid documents without prejudice to any other right which the non-defaulting party may have as a result of such breach.

7. Pricing

- Prices shall be fixed for a period of **60 days** from date of closing.
- Where prices are regulated such rates shall apply.

8. Evaluation Criteria

Bids will be evaluated in accordance the **80/20** principle. Where **80** will be allocated for price points and **20** points will be allocated for preferential points.

For **Preferential Points** bidder(s) must attach a B-BBEE Status level Contribution Certificate authorised/ issued by **SANAS, IRBA** or a **Sworn Affidavit ((Commission of Oath).** Failure to attach, **NO** preference points will be allocated. CSD Certificate/Report WILL **NOT** be used for the purpose of evaluating preference points. **MFMA Circular 81**

A. **GENERAL CONDITIONS OF THE BID**

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The above air conditioners must have the following:
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Outdoor Unit
Wall mounting Screw & Bolts Kit (Indoor)
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Remote Control
Manual
Bandage Tape (Outdoor)
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The Municipality reserves the right to interview bidders before and / or bids are / or after bids are awarded in order to discuss methods and approaches.

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- Tax Compliance Certificate (TCS with a pin) certificate
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- Joint Venture Agreement (If Bidder is a Joint Venture)
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- The following is a statement of major works successfully executed by myself/ my entity in recent years (**Related Air Cons Installations And Supply).**
- Failure to detail the required information shall signify that the Bid is submitted by an inexperienced Bidder.

Employer	Contract Number	Contract Value	Contract Period

H. CURRENT COMMITMENTS (Related Air Cons Installations And Supply)

Employer	Contract Number	Contract Value	Contract Period

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Municipal Building
KURUMAN
8460
053 712 9300 (Tel)
053 712 3581 (Fax)

3. Scope

- Bids are hereby invited for the **Air Cons Installations And Supply services.**
  See specifications above.

4. Objective

- To provide the municipality with the standard goods and services to enable the Municipality to carry out its mandate of Service Delivery.

5. Transfer and Cession

- The preferred bidder shall render the services himself and the use of subcontractors will **NOT** be allowed without prior written permission.
- The preferred bidder **SHALL NOT** cede, transfer, sell or alienate in any way the contract or any part thereof to any person or company without obtaining prior written permission thereto, provided the cessionary complies with the requirements of this contract.

6. Breach and Termination

- Should either party commit or breach the provisions of this contract or fail to remedy any breach(es) within **14 (fourteen) days** after the receipt of written complaint, the party that is not in default shall be entitled to cancel this contract per written notice delivered to the other party's domicillum citandi et executandi as per bid documents without prejudice to any other right which the non-defaulting party may have as a result of such breach.

7. Pricing

- Prices shall be fixed for a period of **60 days** from date of closing.
- Where prices are regulated such rates shall apply.

8. Evaluation Criteria

Bids will be evaluated in accordance the **80/20** principle. Where **80** will be allocated for price points and **20** points will be allocated for preferential points.

For **Preferential Points** bidder(s) must attach a B-BBEE Status level Contribution Certificate authorised/ issued by **SANAS, IRBA** or a **Sworn Affidavit ((Commission of Oath).** Failure to attach, **NO** preference points will be allocated. CSD Certificate/Report WILL **NOT** be used for the purpose of evaluating preference points. **MFMA Circular 81**

Ga-Segonyana Local Municipality

INVITATION TO BID

GAS: Q02/2019-20

SUPPLY, DELIVERY AND INSTALLATION OF AIR CONDITIONERS

PRERENTIAL PROCUREMENT POLICY REGULATIONS

NATIONAL TREASURY

NO. R. 32 **20 JANUARY 2017**

PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000: PREFERENTIAL PROCUREMENT REGULATIONS, 2017

The Minister of Finance has, in terms of section 5 of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000), made the regulations set out in the Schedule.

SCHEDULE

Preferential Procurement Regulations, 2017

Contents

1. Definitions
2. Application
3. Identification of preference point system, designated sector, pre-qualification criteria, objective criteria and subcontracting
4. Prequalification criteria for preferential procurement
5. Tenders to be evaluated on functionality
6. 80/20 preference point system for acquisition of goods or services for Rand value equal to or above R30 000 and up to R50 million
7. 90/10 preference point system for acquisition of goods or services with Rand value above R50 million
8. Local production and content
9. Subcontracting as condition of tender
10. Criteria for breaking deadlock in scoring
11. Award of contracts to tenderers not scoring highest points
12. Subcontracting after award of tender
13. Cancellation of tender
14. Remedies
15. Circulars and guidelines
16. Repeal of Regulations and saving
17. Short title and commencement

Definitions

1. In these Regulations, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act must bear the meaning so assigned-

"B-BBEE" means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

"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;

"black designated groups" has the meaning assigned to it in the codes of good practice issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

"black people" has the meaning assigned to it in section 1 of the Broad-Based Black Economic Empowerment Act;

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

"co-operative" means a co-operative registered in terms of section 7 of the Co-operatives Act, 2005 (Act No. 14 of 2005);

"designated group" means-

(a) black designated groups;
(b) black people;
(c) women;
(d) people with disabilities; or
(e) small enterprises, as defined in section 1 of the National Small Enterprise Act, 1996 (Act No. 102 of 1996);

"designated sector" means a sector, sub-sector or industry or product designated in terms of regulation 8(1)(a);

"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;

"functionality" means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents;

"military veteran" has the meaning assigned to it in section 1 of the Military Veterans Act, 2011 (Act No. 18 of 2011);

"National Treasury" has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

"people with disabilities" has the meaning assigned to it in section 1 of the Employment Equity Act, 1998 (Act No. 55 of 1998);

"price" includes all applicable taxes less all unconditional discounts;

"proof of B-BBEE status level of contributor" means-

(a) the B-BBEE status level certificate issued by an authorised body or person;
(b) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or
(c) any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act;

"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;

"Rand value" means the total estimated value of a contract in Rand, calculated at the time of the tender invitation;

"rural area" means-

(a) a sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area; or

(b) an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have a traditional land tenure system;

"stipulated minimum threshold" means the minimum threshold stipulated in terms of regulation 8(1)(b);

"the Act" means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);

"township" means an urban living area that any time from the late 19th century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994;

"treasury" has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999); and

"youth" has the meaning assigned to it in section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008).

Application

2. These Regulations apply to organs of state as envisaged in the definition of organ of state in section 1 of the Act.[1]

Identification of preference point system, designated sector, pre-qualification criteria, objective criteria and subcontracting

3. An organ of state must-

(a) determine and stipulate in the tender documents-

(i) the preference point system applicable to the tender as envisaged in regulation 6 or 7; or

[1] The definition of "organ of state" in section 1 of the Act in paragraph (a) to (e) includes-

- a national or provincial department as defined in the Public Finance Management Act, 1999;
- a municipality as contemplated in the Constitution;
- a constitutional institution as defined in the Public Finance Management Act;
- Parliament;
- a provincial legislature.

Paragraph (f) of the definition of organ of state in section 1 of the Act includes any other institution or category of institutions included in the definition of "organ of state" in section 239 of the Constitution and recognised by the Minister by notice in the *Government Gazette* as an institution or category of institutions to which the Act applies. Government Notice R. 501 of 8 June 2011 recognises, with effect from 7 December 2011, all public entities listed in Schedules 2 and 3 to the Public Finance Management Act, 1999, as institutions to which the Act applies. Note should be taken of notices issued from time to time in terms of paragraph (f) of this definition. The application of these Regulations is also subject to applicable exemptions approved in terms of section 3 of the Act.

(ii) if it is unclear which preference point system will be applicable, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system;

(b) determine whether pre-qualification criteria are applicable to the tender as envisaged in regulation 4;

(c) determine whether the goods or services for which a tender is to be invited, are in a designated sector for local production and content as envisaged in regulation 8;

(d) determine whether compulsory subcontracting is applicable to the tender as envisaged in regulation 9; and

(e) determine whether objective criteria are applicable to the tender as envisaged in regulation 11.

Pre-qualification criteria for preferential procurement

4.(1) If an organ of state decides to apply pre-qualifying criteria to advance certain designated groups, that organ of state must advertise the tender with a specific tendering condition that only one or more of the following tenderers may respond-

(a) a tenderer having a stipulated minimum B-BBEE status level of contributor;

(b) an EME or QSE;

(c) a tenderer subcontracting a minimum of 30% to-

(i) an EME or QSE which is at least 51% owned by black people;

(ii) an EME or QSE which is at least 51% owned by black people who are youth;

(iii) an EME or QSE which is at least 51% owned by black people who are women;

(iv) an EME or QSE which is at least 51% owned by black people with disabilities;

(v) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;

(vi) a cooperative which is at least 51% owned by black people;

(vii) an EME or QSE which is at least 51% owned by black people who are military veterans;

(viii) an EME or QSE.

(2) A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender.

Tenders to be evaluated on functionality

5.(1) An organ of state must state in the tender documents if the tender will be evaluated on functionality.

(2) The evaluation criteria for measuring functionality must be objective.

(3) The tender documents must specify-

(a) the evaluation criteria for measuring functionality;

(b) the points for each criteria and, if any, each sub-criterion; and

(c) the minimum qualifying score for functionality.

(4) The minimum qualifying score for functionality for a tender to be considered further-

(a) must be determined separately for each tender; and

(b) may not be so-

(i) low that it may jeopardise the quality of the required goods or services; or

(ii) high that it is unreasonably restrictive.

(5) Points scored for functionality must be rounded off to the nearest two decimal places.

(6) A tender that fails to obtain the minimum qualifying score for functionality as indicated in the tender documents is not an acceptable tender.

(7) Each tender that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria envisaged in regulation 11.

80/20 preference point system for acquisition of goods or services for Rand value equal to or above R30 000 and up to R50 million

6.(1) The following formula must be used to calculate the points out of 80 for price in respect of a tender with a Rand value equal to or above R30 000 and up to a Rand value of R50 million, inclusive of all applicable taxes:

$$Ps = 80\left(1 - \frac{Pt - P\min}{P\min}\right)$$

Where-

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmin = Price of lowest acceptable tender.

(2) The following table must be used to calculate the score out of 20 for B-BBEE:

B-BBEE Status Level of Contributor	Number of Points
1	20
2	18
3	14
4	12
5	8
6	6

7	4
8	2
Non-compliant contributor	0

(3) A tenderer must submit proof of its B-BBEE status level of contributor.

(4) A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified, but-

(a) may only score points out of 80 for price; and

(b) scores 0 points out of 20 for B-BBEE.

(5) A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.

(6) The points scored by a tenderer for B-BBEE in terms of subregulation (2) must be added to the points scored for price under subregulation (1).

(7) The points scored must be rounded off to the nearest two decimal places.

(8) Subject to subregulation (9) and regulation 11, the contract must be awarded to the tenderer scoring the highest points.

(9)(a) If the price offered by a tenderer scoring the highest points is not market-related, the organ of state may not award the contract to that tenderer.

(b) The organs of state may-

(i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;

(ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;

(iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.

(c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

90/10 preference point system for acquisition of goods or services with Rand value above R50 million

7.(1) The following formula must be used to calculate the points out of 90 for price in respect of a tender with a Rand value above R50 million, inclusive of all applicable taxes:

Where-

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

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmin = Price of lowest acceptable tender.

(2) The following table must be used to calculate the points out of 10 for B-BBEE:

B-BBEE Status Level of Contributor	Number of Points
1	10
2	9
3	6
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

(3) A tenderer must submit proof of its B-BBEE status level of contributor.

(4) A tenderer failing to submit proof of B-BBEE status level of contribution or is a non-compliant contributor to B-BBEE may not be disqualified, but-

(a) may only score points out of 90 for price; and

(b) scores 0 points out of 10 for B-BBEE.

(5) A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.

(6) The points scored by a tenderer for B-BBEE contribution in terms of subregulation (2) must be added to the points scored for price under subregulation (1).

(7) The points scored must be rounded off to the nearest two decimal places.

(8) Subject to subregulation (9) and regulation 11, the contract must be awarded to the tenderer scoring the highest points.

(9)(a) If the price offered by a tenderer scoring the highest points is not market-related, the organ of state may not award the contract to that tenderer.

(b) The organs of state may-

(i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;

(ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;

(iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.

(c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

Local production and content

8.(1) The Department of Trade and Industry may, in consultation with the National Treasury-

(a) designate a sector, sub-sector or industry or product in accordance with national development and industrial policies for local production and content, where only locally produced services or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content, taking into account economic and other relevant factors; and

(b) stipulate a minimum threshold for local production and content.

(2) An organ of state must, in the case of a designated sector, advertise the invitation to tender with a specific condition that only locally produced goods or locally manufactured goods, meeting the stipulated minimum threshold for local production and content, will be considered.

(3) The National Treasury must inform organs of state of any designation made in terms of regulation 8(1) through a circular.

(4)(a) If there is no designated sector, an organ of state may include, as a specific condition of the tender, that only locally produced services or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered.

(b) The threshold referred to in paragraph (a) must be in accordance with the standards determined by the Department of Trade and Industry in consultation with the National Treasury.

(5) A tender that fails to meet the minimum stipulated threshold for local production and content is an unacceptable tender.

Subcontracting as condition of tender

9.(1) If feasible to subcontract for a contract above R30 million, an organ of state must apply subcontracting to advance designated groups.

(2) If an organ of state applies subcontracting as contemplated in subregulation (1), the organ of state must advertise the tender with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract to-

(a) an EME or QSE;

(b) an EME or QSE which is at least 51% owned by black people;
(c) an EME or QSE which is at least 51% owned by black people who are youth;
(d) an EME or QSE which is at least 51% owned by black people who are women;
(e) an EME or QSE which is at least 51% owned by black people with disabilities;
(f) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
(g) a cooperative which is at least 51% owned by black people;
(h) an EME or QSE which is at least 51% owned by black people who are military veterans; or
(i) more than one of the categories referred to in paragraphs (a) to (h).

(3) The organ of state must make available the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned in subregulation (2) from which the tenderer must select a supplier.

Criteria for breaking deadlock in scoring

10.(1) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for B-BBEE.

(2) If functionality is part of the evaluation process and two or more tenderers score equal total points and equal preference points for B-BBEE, the contract must be awarded to the tenderer that scored the highest points for functionality.

(3) If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

Award of contracts to tenderers not scoring highest points

11.(1) A contract may be awarded to a tenderer that did not score the highest points only in accordance with section 2(1)(f) of the Act.

(2) If an organ of state intends to apply objective criteria in terms of section 2(1)(f) of the Act, the organ of state must stipulate the objective criteria in the tender documents.

Subcontracting after award of tender

12.(1) A person awarded a contract may only enter into a subcontracting arrangement with the approval of the organ of state.

(2) A person awarded a contract in relation to a designated sector, may not subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.

(3) A person awarded a contract may not subcontract 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 of contributor than the person concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.

Cancellation of tender

13. (1) An organ of state may, before the award of a tender, cancel a tender invitation if-

(a) due to changed circumstances, there is no longer a need for the goods or services specified in the invitation;

(b) funds are no longer available to cover the total envisaged expenditure;

(c) no acceptable tender is received; or

(d) there is a material irregularity in the tender process.

(2) The decision to cancel a tender invitation in terms of subregulation (1) must be published in the same manner in which the original tender invitation was advertised.

(3) An organ of state may only with the prior approval of the relevant treasury cancel a tender invitation for the second time.

Remedies

14.(1) Upon detecting that a tenderer submitted false information regarding its B-BBEE status level of contributor, local production and content, or any other matter required in terms of these Regulations which will affect or has affected the evaluation of a tender, or where a tenderer has failed to declare any subcontracting arrangements, the organ of state must-

(a) inform the tenderer accordingly;

(b) give the tenderer an opportunity to make representations within 14 days as to why-

(i) the tender submitted should not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part;

(ii) if the successful tenderer subcontracted a portion of the tender to another person without disclosing it, the tenderer should not be penalised up to 10 percent of the value of the contract; and

(iii) the tenderer should not be restricted by the National Treasury from conducting any business for a period not exceeding 10 years with any organ of state; and

(c) if it concludes, after considering the representations referred to in subregulation (1)(b), that-

(i) such false information was submitted by the tenderer-

(aa) disqualify the tenderer or terminate the contract in whole or in part; and

(bb) if applicable, claim damages from the tenderer; or

(ii) the successful tenderer subcontracted a portion of the tender to another person without disclosing, penalise the tenderer up to 10 percent of the value of the contract.

(2)(a) An organ of state must-

(i) inform the National Treasury, in writing, of any actions taken in terms of subregulation (1);

(ii) provide written submissions as to whether the tenderer should be restricted from conducting business with any organ of state; and

(iii) submit written representations from the tenderer as to why that tenderer should not be restricted from conducting business with any organ of state.

(b) The National Treasury may request an organ of state to submit further information pertaining to subregulation (1) within a specified period.

(3) The National Treasury must-

(a) after considering the representations of the tenderer and any other relevant information, decide whether to restrict the tenderer from doing business with any organ of state for a period not exceeding 10 years; and

(b) maintain and publish on its official website a list of restricted suppliers.

Circulars and guidelines

15. The National Treasury may issue-

(a) a circular to inform organs of state of any matter pertaining to these Regulations; or

(b) a guideline to assist organs of state with the implementation of any provision of these Regulations.

Repeal of Regulations and saving

16.(1) Subject to this regulation, the Preferential Procurement Regulations, 2011, published in Government Notice No R. 502 of 8 June 2011 (herein called "the 2011 Regulations), are hereby repealed with effect from the date referred to in regulation 17.

(2) Any sector designated and minimum threshold determined for local production and content for purposes of regulation 9 of the 2011 Regulations and in force immediately before the repeal of the 2011 Regulations, are regarded as having been done under regulation 8(1) of these Regulations.

(3) Any tender advertised before the date referred to in regulation 17 must be dealt with in terms of the 2011 Regulations.

Short title and commencement

17. These Regulations are called the Preferential Procurement Regulations, 2017 and take effect on 1 April 2017.