

**PART A
INVITATION TO BID**

You are hereby invited to bid for requirements of ERWAT	
Bid Number and Description	RFQ202402/002: REPAIR OF ALCOHOL BREATHALYSER MACHINE
Compulsory Briefing session date and time	N/A
Closing date	06 February 2024
Closing time and venue	12H00 at rfq@erwat.co.za
The successful bidder will be required to fill in and sign a written contract form (MBD7).	

Bidder Information	
Name of Bidding Company	
Company physical address	
Company postal address	
Contact details	Company Representative (Name):
	Telephone:
	Cell phone:
	E-mail address:
National Treasury Central Supplier Database number: (Compulsory)	MAAA
CIDB Grading CRS number	
Vat registration number	
Tax Compliance status	TCS Pin:
Are you the accredited representative in South Africa for the goods/ services/ works offered? If yes, attach proof from the agency your company is accredited to represent	
Total number of items offered	
Total price (including VAT)	R
SCM related enquiries:	Ms Brenda Matlala or Ms P Mdlalose E-mail: Brenda.matlala@erwat.co.za E-mail: Phumzile.mdlalose@erwat.co.za Tel: 011 929-7000
Technical enquiries	Mr Ronald Mbedzi 011 929 7000 E-mail: Ronald.mbedzi@erwat.co.za

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. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.

2. TAX COMPLIANCE REQUIREMENTS

- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.
- 2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.
- 2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.

3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

- 3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? ☐ YES ☐ NO
- 3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA? ☐ YES ☐ NO
- 3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? ☐ YES ☐ NO
- 3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? ☐ YES ☐ NO
- 3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? ☐ YES ☐ NO

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

NB: Failure to provide any of the above particulars may result in your bid being disqualified.

Name& Surname of Representative: _____

Signature Of Bidder: _____

Capacity Under Which This Bid Is Signed: _____

Date: _____

NOTICE TO BIDDERS

VERY IMPORTANT NOTICE ON DISQUALIFICATIONS:

A bid not complying with the peremptory requirements stated hereunder will be regarded as not being an "Acceptable bid", and as such will be rejected.

"Acceptable bid" means any bid which, in all respects, complies with the conditions of bid and specifications as set out in the bid documents.

To ensure that your bid is not exposed to invalidation, documents are to be completed in accordance with the conditions and bid rules contained in the bid documents. The lowest or any bid will not necessarily be accepted, and ERWAT reserves the right not to consider any bid not or a bid not comprehensively completed as well as the right to accept a bid in whole or part. ERWAT reserves the right to appoint more than one bid for this contract.

A BID WILL BE REJECTED:

- If bidders are not compliant with all applicable legislative requirements, as per CSD. National Treasury in partnership with the Provincial Treasury have developed municipalities and municipal entities with a Central Supplier Database (CSD) for the registration of prospective suppliers in line with Section 14(1) (b) of the Municipal Supply Chain Management Regulations (MSCMR). (Tax compliance will be dealt with in terms of MFMA Circular No. 90)
- Non-compliance with the Value Added Tax Act, 1991; i.e. In terms of this Act, it is mandatory for any business to register for VAT if the income earned in any consecutive twelve (12) month period exceeds or is likely to exceed R 1 million. NB: Bidder/s failing to comply with this provision of the Value Added Tax Act, 1991 WILL NOT BE CONSIDERED, therefore rejected.
- Non-compliance with the Municipal Supply Chain Management Regulations, 2005; i.e. All sections affecting the evaluation of the bid must be indicated on the bid document and must be submitted and completed in full. All bidder's information must be accurate and correct.
- In the event of there being scratching out, writing over or painting out rates or information, affecting the evaluation of the bid, without initialling next to the amended rates or information. However, in cases where the total amount (aggregated) has not been affected, the bid will still be acceptable.
- In the event of the use of correction fluid (e.g., tippex), any erasable ink, or any erasable writing instrument (e.g., pencil). (Only black pen to be used).
- If the Bid has not been properly signed by a person having the authority to do so.
- Any misrepresentation constitutes a criminal offence as set out in the B-BBEE Act (as amended) and could lead to prosecution and misrepresentation on the specific goals will result in the bidder being reported to National Treasury's list of tender defaulters.
- Where the recommended bidder is not tax compliant, the bidder should be notified of their non-compliant status and the bidder will be requested to submit to the municipality, within 7 working days. The bidder will be rejected if they fail to provide proof of tax compliance status within the 7 working days after recommendation (at the discretion of ERWAT).
- If the bidder attempts to influence or has in fact influenced the evaluation and/or awarding of the contract.
- If any municipal rates and taxes or municipal service charges owed by the bidder or any of its directors/members to the municipality or municipal entity, or to any other municipality or municipal entity, are in arrears for more than three months (unless if the bidder has attached proof of the payment arrangement of the arrears to the bid document as at the closing date of the submission of bids).
- If any bidder who during the last five years has failed to perform satisfactorily on a previous contract with the municipality, municipal entity or any other organ of state after written notice was given to that bidder that performance was unsatisfactory.

- The accounting officer must ensure that irrespective of the procurement process followed, no award may be given to a person –
 - who is in the service of the state, or;
 - if that person is not a natural person, of which any director, manager, shareholder or stakeholder, is a person in the service of the state; or; who is an advisor or consultant contracted with the municipality in respect of contract that would cause a conflict of interest.
- If the bidder is not registered in the required CIDB contractor grading designation (category) or higher, if required in this bid documentation.
- If the bidder or any of its directors is listed on the Register of Bid Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector.
- If more than one (1) company quotes and the Director/s are the same Person/s and the companies fail to disclose this in the MBD4; the bids will be rejected as a result of Anti-Competitive Behaviour.
- If the bidder has failed to submit ALL required documents as specified on the bid document.
- If the following have not been fully completed and signed:
 - MBD 1 - General Declaration
 - MBD 3.1 – Pricing schedule (firm prices) (where applicable)
 - MBD 4 - Declaration of Interest
 - MBD 6.1 – Preference Points Claim Form in Terms of The Preferential Procurement Regulations 2022
 - MBD 8 - Declaration of Bidder's Past SCM Practices
 - MBD 9 - Certificate of Independent Bid Determination
- If any pages have been removed from the bid document, and have therefore not been submitted, or a copy of the original bid document has been submitted (all signatures to be original on each page).
- If the bidder fails to achieve the minimum score in terms of the functionality evaluation

TERMS OF REFERENCE

RFQ202402/002: REPAIR OF ALCOHOL BREATHALYSER MACHINE

1. SCOPE OF WORK

Repair of alcohol breathalyser machine

2. MANDATORY REQUIREMENTS

- Proof of company Central Supplier Database Registration.
- Municipal account statement not older than 3 months and not owing for 90+days or a valid lease agreement signed by lessee and lessor.
- Tax compliance status (tax pin certificate or CSD tax status compliance)
- Supporting documents for functionality evaluation (where applicable)
- Fully completed MBD forms
- FAILURE TO ADHERE TO THESE CONDITIONS WILL LEAD TO THE BID BEING INVALIDATED.

3. VALUE ADDED TAX

All bid prices must be inclusive of 15% Value-Added Tax where applicable.

4. COMMUNICATION

ERWAT may communicate with bidders for, among others, where bid clarity is sought, to obtain information or to extend the validity period.

5. LATE BIDS

Bids received electronically after the closing date and time will not be accepted for consideration and where applicable.

6. FRONTING

ERWAT supports the spirit of broad based black economic empowerment and recognizes that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent and legally compliant manner. Against this background ERWAT condemns any form of fronting.

ERWAT, in ensuring that bidders conduct themselves in an honest manner will, as part of the bid evaluation processes, conduct or initiate the necessary enquiries/investigations to determine the accuracy of the representation made in bid documents. Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting issued by the Department of Trade and Industry, established during such enquiry/investigation, the onus will be on the bidder contractor to prove that fronting does not exist. Failure to do so within a period of 14 days from date of notification may invalidate the bid/contract and may also result in the restriction of the bidder/contractor to conduct business with the public sector for a period not exceeding ten years, in addition to any other remedies the National Treasury may have against the bidder/contractor concerned.

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 NO: **RFQ202402/002: REPAIR OF ALCOHOL BREATHALYSER MACHINE**

OFFER TO BE VALID FOR 30 DAYS FROM THE CLOSING DATE OF BID.

Kindly note that pricing must provide for direct and indirect fees including transport and labour to finalize this bid.

PRICING SCHEDULE

Item no.	Description	Quantity	Unit Price	Total (excl. VAT)
1.	Repair of alcohol breathalyser and faulty report	1		
3.	Labour	1		
4.	Travel	1		
Subtotal (excl. VAT)				
VAT @ 15%				
Total (incl. VAT)				

Failure to complete the pricing in full will result in disqualification.

- Does the offer comply with the specification(s)? *YES/NO

- If not to specification, indicate deviation(s): _____

- Period required for delivery: _____
*Delivery: Firm/Not firm

- Delivery basis _____

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

** "all applicable taxes" includes value-added tax, pay as you earn, income tax, unemployment Insurance fund contributions and skills development levies.

DECLARATION OF INTEREST

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

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.

A Person who is an advisor or consultant contracted with the municipality.

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

4.1 Full Name of bidder or his or her representative: _____

4.2 Identity Number: _____

4.3 Position occupied in the Company (director, trustee, shareholder²): _____

4.4 Company Registration Number: _____

4.5 Tax Reference Number: _____

4.6 VAT Registration Number: _____

4.7 The names of all directors / trustees / shareholder's members, their individual identity numbers and state employee numbers must be indicated in paragraph 5 below.

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

If so, furnish particulars.

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

If so, furnish particulars.

4.10 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

If so, furnish particulars.

4.11 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

If so, furnish particulars.

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

If so, furnish particulars.

- 4.13 Are any spouse, child or parent of the company's directors, trustees, managers, principle shareholders or stakeholders in service of the state? YES / NO
If so, furnish particulars.

- 4.14 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

If so, furnish particulars.

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

Full Name	Identity Number	State Number	Employee

CERTIFICATION

I, the undersigned (name) _____ certify that the information furnished on this declaration form is correct. I accept that the state may act against me should this declaration prove to be false.

Name& Surname of Representative: _____

Signature of Bidder: _____

Designation: _____

Date: _____

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

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

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

GENERAL CONDITIONS

The following preference point systems are applicable to invitations to tender:
the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included)

The applicable preference point system for this tender is the 80/20 preference point system and shall be awarded for:

- Price; and
- Specific Goals.

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
SPECIFIC GOALS	20
Total points for Price and SPECIFIC GOALS	100

Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

DEFINITIONS

“tender” means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

“price” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;

“rand value” means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

“tender for income-generating contracts” means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and

“the Act” means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

POINTS AWARDED FOR PRICE

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

The 80/20 formula will be used to calculate the points for price in respect of bidders with a Rand value below R50 000 000.

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmax = Price of highest acceptable tender

POINTS AWARDED FOR SPECIFIC GOALS

In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system)	Evidence required but not limited to the following:	Number of points claimed (80/20 system) (To be completed by the tenderer)
EME or QSE 51% owned by women	4	<ul style="list-style-type: none">- CSD report- MKVA force number- Municipal account/ lease agreement- Proof of disability issued by medical doctor	
EME or QSE 51% owned by youth	4		
EME or QSE 51% owned by people with disabilities	4		
EME or QSE 51% owned by military veterans	4		
EME or QSE within the boundaries of Ekurhuleni Municipality	4		

The above information will be verified in accordance with the bidders B-BBEE certificate, and or a certificate from the companies and intellectual property commission (CIPC), the department of Military Veterans and or other supporting documents. All supporting evidence must be submitted in order to claim the preferential procurement points claimed. ERWAT reserves the right to verify the information submitted.

In the case of multi-parties (Joint ventures, consortiums, partnerships, etc.), allocation of points will be calculated by adding the individual parties in the JV, etc. ownership % together; divide the total by the number of parties in the respective joint ventures, consortiums, partnerships, etc. The average % will thus be the indicating factor for the number of points to be scored limited to the maximum available points.

e.g. Joint venture:

Party 1 = 51% EME/QSE owned by women

Party 2 = 100% EME/QSE owned by women

= **151%** / 2 parties in the JV = 75% and will score = 4 points

The above principle will apply to points 1, 2, 3 & 4 indicated in Table 1 above.

For point 5: The collective JV agreement's address, or the Lead JV partners' domicile Address will be utilized for scoring of points.

DECLARATION WITH REGARD TO COMPANY/FIRM

Name of company/firm: _____

Company registration number: _____

TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
- ☐ One-person business/sole propriety
- ☐ Close corporation
- ☐ Public Company
- ☐ Personal Liability Company
- ☐ (Pty) Limited
- ☐ Non-Profit Company
- ☐ State Owned Company

[TICK APPLICABLE BOX]

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

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

Company name: _____

Company address: _____

Name& Surname of Representative: _____

Signature Of Bidder: _____

Designation: _____

Date: _____

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

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.

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

- abused the company's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;
- been convicted for fraud or corruption during the past five years;
- willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
- 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).

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 of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied). 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.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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)? 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.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the company / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		
4.5	Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.5.1	If so, furnish particulars:		

CERTIFICATION

I, the undersigned (full name _____) certify that the information furnished on this declaration form is 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.

Name& Surname of Representative:

Signature of Bidder:

Designation:

Date:

CERTIFICATE OF INDEPENDENT BID DETERMINATION

This Municipal Bidding Document (MBD) must form part of all bids¹ invited.

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.

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.

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.

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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

RFQ202402/002: REPAIR OF ALCOHOL BREATHALYSER MACHINE

in response to the invitation for the bid made by: **EKURHULENI WATER CARE COMPANY (ERWAT)** do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of _____ (Name of Bidder) that:

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities, or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.

7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
- (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.

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.

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.

Name& Surname of Representative:

Signature Of Bidder:

Designation:

Date:

POPIA CONSENT FORM

PROTECTION OF PERSONAL INFORMATION ACT, 4 OF 2013

By signing this referral form:

- a) I/we hereby grant my/our voluntary consent that my/our personal information may be processed, collected, used and disclosed in compliance with the Protection of Personal Information Act, 4 of 2013.
- b) I/we furthermore agree that my/our personal information may be used for the lawful and reasonable purposes in as far as the ERWAT (responsible party) must use my/our information in the performance of its public legal duty.
- c) I/we understand that my/our personal information may be disclosed to a third party in as far as the ERWAT must fulfil its public legal duty.
- d) I/we furthermore understand that there are instances in terms of abovementioned Act where my express consent is not necessary to permit the processing of personal information, which may be related to litigation or when the information is publicly available. Further details are available on the ERWAT website.

Company name: _____

Company address: _____

Name& Surname of Representative: _____

Signature of Bidder: _____

Designation: _____

Date: _____

**RAISE YOUR VOICE AND TAKE ACTION AGAINST CORRUPTION AND FRAUD ANONYMOUS
REPORTING**

**FRAUD AND ETHICS HOTLINE:
0800-204-860**

website: www.thehotline.co.za | e-mail: erwat@thehotline.co.za | Fax :0867 261 681 | SMS: 30916

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App Stores: Vuvuzela Hotline