**ANNEXURE E - B-BBEE PREFERENCE POINTS CLAIM FORM**

**REQUEST FOR PROPOSALS (RFP)**

**FOR THE SUPPLY OF NETWORK AND SECURITY EQUIPMENT, SOFTWARE AND SERVICES TO THE CSIR**

**RFP NO. 3395/09/10/2020**

This preference form must form part of all bids invited. It contains general information and serves as a claim 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, 2011.**

1. **GENERAL CONDITIONS**
	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. The value of this bid is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable. Despite the stipulated preference point system, CSIR shall use the lowest acceptable bid to determine the applicable preference point system in a situation where all received acceptable bids are received outside the stated preference point system.
	2. 1.3 Preference points for this bid shall be awarded for:
1. Price; and
2. B-BBEE Status Level of Contribution.
	1. The maximum points for this bid are allocated as follows: POINTS

PRICE 80

B-BBEE STATUS LEVEL OF CONTRIBUTION 20

Total points for Price and B-BBEE must not exceed 100

* 1. Failure on the part of a bidder to submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System [SANAS], or a sworn affidavit confirming annual turnover and level of black ownership in case of all EMEs and QSEs with 51% black ownership or more together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed. Certificates issued by a Registered Auditor approved by the Independent Board of Auditors [IRBA] to Large Enterprises or QSEs with less than 51% black ownership have been discontinued but such valid certificates that were issued before 1 January 2017 may be used until they phase out completely by December 2017.
	2. 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.
1. **DEFINITIONS**
	1. “all applicable taxes” includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
	2. “B-BBEE” means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
	3. “B-BBEE status level of contributor” means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
	4. “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 services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
	5. “Black designated group” has meaning assigned to it in codes of good practice issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act.
	6. “Black People” meaning assigned to in Section 1 of Broad-Based Black Economic Empowerment Act.
	7. “Broad-Based Black Economic Empowerment Act” means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
	8. “CIPC” means the Companies and Intellectual Property Commission, formerly known as CIPRO, the Companies and Intellectual Property Registration Office.
	9. “comparative price” means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
	10. “consortium or joint venture” 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;
	11. “contract” means the agreement that results from the acceptance of a bid by an organ of state;
	12. “co-operative” means a co-operative registered in terms of section 7 of Cooperatives Act, 2005 (Act No. 14 of 2005)
	13. “Designated Group” means - i) Black designated groups; ii) Black People; iii) Women; iv) people with disabilities or v) Small enterprise, as defined in Section 1 of National Small Enterprise Act, (102 of 1996)
	14. “Designated Sector” means, sub-sector or industry or product designated in terms of regulation 8(1)(a)
	15. “EME” means an Exempted Micro Enterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
	16. “firm price” means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
	17. “functionality” means the ability of a bidder to provide goods or services in accordance with specification as set out in the bid documents
	18. “Military Veteran” has meaning assigned to it in Section 1 of Military Veterans Act, 2011 (Act No. 18 of 2011)
	19. “National Treasury” has meaning assigned to it in Section 1 of Public Finance Management Act, 1999 (Act No. 1 of 1999)
	20. “non-firm prices” means all prices other than “firm” prices;
	21. “person” includes a juristic person;
	22. “People with disabilities” meaning assigned to it in terms of Section 1 of Employment Equity Act, 1998 (Act No. 55of 1998)
	23. “Price” includes all applicable taxes less all unconditional discounts.
	24. “Proof of B-BBEE Status Level of Contributor” i) the B-BBBEE status level certificate issued by an unauthorised body or person; ii) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or iii) any other requirement prescribed in terms of the Broad- Based Black Economic Empowerment Act.
	25. “Rural Area” i) 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 ii) an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have traditional land tenure system.
	26. “QSE” means a Qualifying Small EEnterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
	27. “rand value” means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
	28. “sub-contract” means the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
	29. “total revenue” bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the Government Gazette on 9 February 2007;
	30. “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;
	31. “Treasury” meaning assigned to it in Section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
	32. “trust” means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person;
	33. “trustee” means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person; and
	34. “Youth” meaning assigned to it in terms of Section 1 of National youth Development Agency Act, 2008 (Act No. 54 of 2008).
2. **3. ADJUDICATION USING A POINT SYSTEM**
	1. The bidder obtaining the highest number of total points will be awarded the contract.
	2. Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts.
	3. Points scored must be rounded off to the nearest 2 decimal places.
	4. In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
	5. However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
	6. Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.
3. **POINTS AWARDED FOR PRICE**
	1. THE 80/20 PREFERENCE POINT SYSTEMS

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

1. **POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTION**
	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 (80/20 system)** |
| 1 | 20 |
| 2 | 18 |
| 3 | 14 |
| 4 | 12 |
| 5 | 8 |
| 6 | 6 |
| 7 | 4 |
| 8 | 2 |
| 9 / Non-compliant contributor | 0 |

* 1. A bidder who qualifies as an EME in terms of the B-BBEE Act must submit a sworn affidavit confirming Annual Total Revenue and Level of Black Ownership. Furthermore EMEs may also obtain a sworn affidavit from CIPC (formerly CIPRO) Self Service Terminals when registering a business or filing annual returns. In these instances CSIR would require proof of turnover as well as proof of ownership. Sworn affidavits must substantially comply with the format that can be obtained on the DTI’s website at [www.dti.gov.za/economic\_empowerment/bee\_codes.jsp](http://www.dti.gov.za/economic_empowerment/bee_codes.jsp).
	2. QSEs that are at least 51% Black owned or higher are only required to obtain a sworn affidavit on an annual basis confirming that the entity has an Annual Total Revenue of R50 million or less and the entity’s Level of Black ownership.
	3. A Bidder other than EME or a QSE that is at least 51% Black owned must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
	4. A trust, consortium or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE Status Level verification certificate for every separate bid.
	5. Tertiary Institutions and Public Entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
	6. A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
	7. A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.
	8. Bidders are to note that the rules pertaining to B-BBEE verification and other B-BBEE requirements may be changed from time to time by regulatory bodies such as National Treasury or the DTI. It is the Bidder’s responsibility to ensure that his/her bid complies fully with all B-BBEE requirements at the time of the submission of the bid.
1. **BID DECLARATION**
	1. Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:
2. **B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 5.1**
	1. B-BBEE Status Level of Contribution: . = ………(maximum of 20 points)
	2. (Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or a sworn affidavit.
3. **SUB-CONTRACTING**
	1. Will any portion of the contract be sub-contracted?

(Tick applicable box)

|  |  |  |  |
| --- | --- | --- | --- |
| YES |  | NO |  |

* + 1. If yes, indicate:
1. What percentage of the contract will be subcontracted............…………….…………%
2. The name of the sub-contractor…………………………………………………………..
3. The B-BBEE status level of the sub-contractor......................................……………..
4. Whether the sub-contractor is an EME.

|  |  |  |  |
| --- | --- | --- | --- |
| YES |  | NO |  |

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

|  |  |  |
| --- | --- | --- |
| Designated Group which is at last 51% owned by |  |  |
| 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  |  |  |
| 1. Cooperative owned by black people
 |  |  |
| 1. Black people who are military veterans
 |  |  |
| Or |  |  |
| Any EME |  |  |
| Any QSE |  |  |

1. **DECLARATION WITH REGARD TO COMPANY/FIRM**
	1. Name of company/firm:………………………………………………………………….
	2. VAT registration number:………………… ……………………………………………
	3. Company registration number:……….……………………………..………………….
	4. TYPE OF COMPANY/ FIRM
* Partnership/Joint Venture / Consortium
* One person business/sole propriety
* Close corporation
* Company
* (Pty) Limited

[TICK APPLICABLE BOX]

* 1. DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

……………………………………………………………………..……………………………………………………………………………………………………..……………………………………………………………………………………………………….……………………

* 1. COMPANY CLASSIFICATION
* Manufacturer
* Supplier
* Professional service provider
* Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

* 1. Total number of years the company/firm has been in business:……………………
	2. 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 contribution indicated in paragraph 7 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:
1. The information furnished is true and correct;
2. The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
3. In the event of a contract being awarded as a result of points claimed as shown in paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
4. If a bidder submitted false information regarding its B-BBEE status level of contributor, local production and content, or any other matter required in terms of the Preferential Procurement Regulations, 2017 which will affect or has affected the evaluation of a bid, or where a bidder has failed to declare any subcontracting arrangements or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have,
5. disqualify the person from the bidding process;
6. recover costs, losses or damages it has incurred or suffered as a result of that person’s conduct;
7. 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;
8. if the successful bidder subcontracted a portion of the bid to another person without disclosing it, CSIR reserves the right to penalise the bidder up to 10 percent of the value of the contract;
9. 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
10. forward the matter for criminal prosecution.

WITNESSES

1. Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SIGNATURE OF BIDDER

1. Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
3. Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_