

**Office of the City Manager
Geographic Information and Policy Office
Corporate Policy Unit**

PO Box 5856
Durban 4000



Enquiry 1A -7391

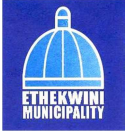
Request For Proposal for:

TRANSACTION ADVISORY SERVICES
TO
ETHEKWINI MUNICIPALITY ON
THE TRANSITION OF THE CURRENT METROCONNECT PROJECT TO A BROADBAND
INFRASTRUCTURE THROUGH A PUBLIC PRIVATE PARTNERSHIP.



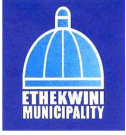
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Section 1 - Definitions

<i>Term</i>	<i>Definition</i>
MetroConnect	Next Generation Network currently providing core network services.
Broadband	High speed public network capable of supporting next tier services such as voice & video
PPP	Public Private Partnership



Section 2 - Conditions of Tender / Contract

1. BID INFORMATION

- 1.1. Each bidder shall complete fully and accurately the following documents, viz., Questionnaires, Declaration of Municipal Fees Form, Declaration of Interest, Bid Form, Schedule of Experience and Targeted Procurement Document and submit documents mentioned below with its bid. Remaining bid documents issued with this enquiry, such as Conditions of Bid/Contract (Goods and Services and Government Procurement General Conditions shall be detached and retained by the bidder.)
- 1.2. The specification will be governed by the Special Conditions of Bid/Contract (Goods and Services) and Government Procurement General Conditions, attached hereto, and to the Occupational Health and Safety Act, Act No. 85 of 1993.
- 1.3. The adjudication will be based upon the points system outlines in Section 8 for each bidder's responsiveness, price and upon the procurement point system respectively in accordance with eThekweni Municipality's Targeted Procurement Policy.
- 1.4. All bidder prices quoted by the contractor must be in South African currency (Rand).
- 1.5. eThekweni Municipality reserves the right to accept more than one technically and contractually compliant bid for part or the whole of the contract and to place orders on the price and availability.
- 1.6. Bidders shall not bind eThekweni Municipality to any minimum quantity per order.
- 1.7. The successful bidder shall be bound to supply a quantities stipulated in this specification.
- 1.8. Bidders may submit alternative solutions that in the Bidder's opinion are to eThekweni Municipality's advantage economically and technically. Full technical details of these alternative offer(s) shall be submitted with Bid documents. Alternative Bid(s) shall be submitted separately.

2. TAX CLEARANCE CERTIFICATE

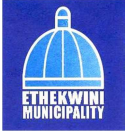
- 2.1. Bidders are to include with their bid submission a valid tax clearance certificate, or obtain one prior to the evaluation of submissions, which has sufficient validity to ensure that the tender process is adequately covered.

3. DECLARATION OF MUNICIPAL FEES

- 3.1. Only those bidders whose municipal fees are fully paid or arrangements have been concluded with the Municipality to pay the said fees are eligible to bid.
- 3.2. All tenderer's are to sign a declaration wherein they declare that their municipal fees are in order, or proper arrangements have been made with the Municipality, and include the relevant account numbers in the declaration. Failure to include account numbers or sign will invalidate the tender. The completion of the declaration is also applicable to tenderers outside of the eThekweni Municipal Area.

4. DECLARATION OF INTEREST

- 4.1. All bidders are to sign the declaration of interest wherein they declare any relationship that may exist with an official of the Municipality involved in the evaluation process.



5. CONTRACT PRICE ADJUSTMENT (CPA)

- 5.1. If your prices are subject to CPA, the bid shall include details for calculating adjustments in accordance with the full cost.
- 5.2. Prices should South African Rand only.
- 5.3. Note :- CPA claims shall be submitted within 120 days from the date of each delivery. If the formula questionnaire or information requested above is not provided, your bid shall be considered fixed and firm for the duration of the contract.

6. SPECIAL CONDITIONS OF TENDER / CONTRACT

- 6.1. Any special conditions relative to the contract will form part of this contract.

7. PURCHASE OF GOODS FROM OTHER SOURCES

- 7.1. Nothing contained in this contract shall be held to restrain the Municipality from purchasing from persons other than the contractor, any of the goods described or referred to in this contract, if it shall in its discretion think fit to do so.

8. DELIVERY, RISK, PACKAGES, ETC

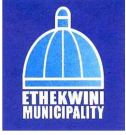
- 8.1. Unless otherwise provided, all goods are to be supplied only against the official form of order issued by the Municipality.
- 8.2. The risk in all goods purchased by the Municipality under the contract shall remain with the contractor until such goods shall have been duly delivered.
- 8.3. Bidders shall quote a unit price which shall include delivery to specified delivery point within the eThekweni Municipal area.
- 8.4. Bidders shall clearly state the period within which delivery will be made after receipt of the official order, as this may be material in the adjudication of the Bid.

9. PAYMENT

- 9.1. Where no conditions of payment are prescribed, payment for goods received and accepted by the Municipality shall be made no later than 30 days after submission of invoice or claim, provided however that all the terms of the contract are duly observed.

10. RATES OF EXCHANGE

- 10.1. Where the goods are imported the contractor shall within seven days of date of Official Purchase Order, arrange through his bankers for the foreign commitment to be covered forward down to the Rand in order to fix the rate of exchange. The contractor shall notify the Municipality as soon as possible thereafter regarding the rate which has been fixed on such forward exchange.
- 10.2. Any increase or decrease between the basic rate of exchange as at a date seven days prior to the date of closing of Bids and that existing at the date of establishment of the forward exchange cover within the period stipulated above shall be paid or deducted by the Municipality. Upon the failure of the contractor to arrange forward exchange cover, the contractor shall be liable should there be any increase in the basic rate of exchange occurring after the last mentioned date.
- 10.3. The bank charges incurred in obtaining the forward exchange cover shall be for the Municipality's account.



10.4. The contractor shall on request :-

10.4.1. Submit documentary proof of the rate of exchange;

10.4.2. When an adjustment is claimed in terms of this sub-clause, whether by the contractor or the Municipality, submit documentary proof to the satisfaction of the Deputy City Manager: Treasury in respect of such claim.

11. VALUE ADDED TAX (VAT)

11.1. The Bidder shall state the amount of value added tax (V.A.T) separately on the Official Tender Form.

12. FORM OF TENDER AND CLOSING DATE

12.1. Sealed bids made out on the enclosed Official Tender Form which shall be signed by or on behalf of the Bidder and addressed to the Head : GIPO and marked with the appropriate enquiry number must be placed in the Tender box provided which is located in the Foyer, Ground Floor, City Engineer's Unit, Municipal Centre, 166 K.E. Masinga Road (Formerly Old Fort Road), Durban, not later than 11:00 on Friday 6th January 2012 in the public advertisement inviting bids, where they will be opened publicly.

12.2. All couriered documents must be placed directly into the tender box and should not be delivered to any other Municipal Department. Bidders are advised that bids submitted by fax or email will not be considered.

12.3. Any bid received after the closing date and time advertised for the receipt thereof shall not be accepted for consideration by the Deputy Head: Customer Services and shall be returned to the Bidder.

12.4. Bids will be liable to rejection unless made out and signed on the official tender form annexed hereto

12.5. Failure of a tenderer to complete and sign the tender form in its entirety will invalidate the tender.

13. ACCEPTANCE OF BID

13.1. The Municipality does not bind itself to accept the lowest or any Bid and reserves the right to accept the whole or any part of a Bid.

14. WITHDRAWAL OF BIDS

14.1. Bids must hold good until 16h00 on the Friday of the twelfth week (85 calendar days) following the Friday on which Bids are opened or during such other period as may be specified. The Municipality may, during the period for which Bids are to remain open for acceptance, authorize a Bidder to withdraw his/her Bid in whole or in part on condition that the Bidder pays to the Municipality on demand, a sum of R1 000. The Municipality may, if it thinks fit, waive payment of such sum in whole or in part.

15. DIFFERENCES OR DISCREPANCIES

15.1. Prices

15.1.1. Should there be any difference or discrepancy between the prices or price contained in the Official Tender Form and those contained in any covering letter from the Bidder, the prices or price contained in the Official Tender Form shall prevail.



15.2. Complete Acceptance of Conditions

- 15.2.1. Unless otherwise expressly stipulated in the letter covering the Bid every Bidder shall be deemed to have waived, renounced, and abandoned any conditions printed or written upon any stationery used by him for the purpose of or in connection with the submission of his Bid, which are in conflict with the General and Special Conditions of Contract. Bidders are advised that any material divergences from the official Conditions or Specification will render their Bids liable to disqualification.

16. **BRIBERY AND COMMUNICATION WITH COUNCILLORS / OFFICIALS**

16.1. Bribery

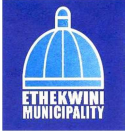
- 16.1.1. No Bidder shall offer, promise or give to any person or person connected with a bid or the awarding of a contract, any gratuity, bonus or discount etc, in connection with the obtaining of a contract.

16.2. Communication, Councillors and Officials

- 16.2.1. A Bidder shall not in any way communicate with a member of the Municipality or with any official of the Municipality on a question affecting any contract for the supply of goods or for any work, undertaking or services which is the subject of a bid during the period between the closing date for receipt of Bids and the dispatch of the written notification of the Municipality's decision on the award of the contract; provided that a Bidder shall not hereby be precluded:
- 16.2.1.1. at the request of the Head : Supply Chain Management Unit or his authorized representative, from furnishing him with additional information or with a sample or specimen for testing purposes or otherwise or from giving a demonstration so as to enable the recommendation to the Bid Committee on the award of the contract to be formulated;
- 16.2.1.2. from obtaining from the Head : Supply Chain Management Unit his authorised representative information as to the date upon which the award of the contract is likely to be made or, after the decision upon the award has been made by the Municipality or any Committee to which the Municipality has delegated its powers, information as to the nature of the decision or such information as was publicly disclosed at the opening of bids or from submitting to the Accounting Officer in writing any communication relating to his/her Bid or the award of the contract or a request for leave to withdraw his/her bid;
- 16.2.1.3. and provided further that nothing contained herein shall be construed so as to prevent information being sought and obtained from an Official in regard to any decision taken at an open Municipal meeting, or any Committee to which the Municipality has delegated its powers.
- 16.2.2. A contravention of subsection (1) and / or (2) or an attempt to contravene such subsection shall be reported to the Accounting Officer, who may on receipt of such report disqualify the bid of the Bidder concerned.

17. **LEGAL STATUS OF BIDDER**

- 17.1. It is essential for the purpose of entering into a legal contract that Bidders state on the Official Tender Form under Name and Address of Bidder their full legal status, for example the full registered name of the company Bidding; or if the Bidder is a person conducting business under a recognised trading name then state the name of the person/s - Trading as _____ (state recognised trading name) and state whether owner, co-owner, proprietor, etc.



18. AUTHORITY OF SIGNATORY

- 18.1. Bidders should submit with their bids a certified copy of the Resolution of the Company authorising the signatory to sign Bid documents on behalf of the Company. If the Bidder is not a registered company, the signatory shall indicate in what capacity and under what authority the bid documents were signed by him/her.

19. ALTERATIONS TO BID DOCUMENTS

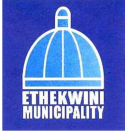
- 19.1. Any alterations effected upon any of the bid documents must be clearly shown by means of a hand written/typed entry and must be signed in full by the Bidder.

20. FACTORING

- 20.1. Payment will be made only to the contractor(s). Factoring arrangements will not be accepted.

21. PREFERENTIAL PROCUREMENT

- 21.1. Applicable Documentation These conditions of tender are to be read together with the following documents :-
- 21.1.1. eThekweni Municipality Targeted procurement Policy document.
- 21.2. It is a requirement of this Tender that all the Contractors, Joint Ventures and Targeted Enterprises, must be registered, or be eligible for registration, on the eThekweni Municipal Procurement Database such that their classification, as described above, has been or can be determined and verified prior to Tender adjudication and award.
- 21.3. Adjudication of Tenders on a Points System
- 21.3.1. Examination of Tenders and Determination of Responsive Prior to the detailed evaluation of tenders, each tender will be examined to establish that it;
- 21.3.1.1. meets the requirements of the Conditions of Tender;
- 21.3.1.2. has been properly signed;
- 21.3.1.3. is responsive to the requirements of the Contract document
- 21.3.1.4. provides any clarification and/or substantiation required;
- 21.3.1.5. complies with the tender submission requirements in all other respects.
- 21.3.2. A responsive tender is one, which conforms to all the Terms, Conditions and Specifications of the Contract without material deviation or qualification. A material deviation or qualification is one which;
- 21.3.2.1. could detrimentally affect the scope, quality, or performance of the Works;
- 21.3.2.2. changes risks and responsibilities under the Contract for any of the parties involved with the Contract; or
- 21.3.2.3. would affect the competitive position of other tenderers presenting responsive tenders, if it were to be rectified.
- 21.3.3. If the Tender does not meet the requirements or is not responsive, it is liable to be rejected by the Employer, and may not subsequently be made acceptable to the Employer by correction or withdrawal of the non-conforming deviation of reservation.



- 21.3.4. For the purposes of determining the degree of preference to be accorded, Bidders are required to complete the application for targeted enterprise status or if already registered on the eThekweni Municipality Procurement Database quote allocated reference number. Confirmations of reference numbers are obtainable from the Procurement Monitoring Branch, telephone (031) 322 7007.
- 21.3.5. Failure on the part of the Bidder to fill in and/or sign the declaration and/or endorse the documentation will be construed to mean that the preference points are not claimable. Preference points will not be awarded in that case.

22. TENDERS WILL ONLY BE ACCEPTED ON CONDITION THAT :

- 22.1. the tender is signed by a person authorised to sign on behalf of the tenderer;
- 22.2. a valid original Tax Clearance Certificate is received prior to the evaluation of tenders which has sufficient validity to ensure the process is adequately covered;
- 22.3. a Tenderer who submitted his/her tender as a Joint Venture has included an acceptable Joint Venture Agreement with his/her tender.

23. APPEAL PROCESS

- 23.1. In terms of Regulation 49 of the Municipal Supply Chain Management Regulations persons aggrieved by decisions or actions taken by the Municipality, may lodge an appeal within 14 days of the decision or action, in writing to the Municipality.
- 23.2. Tenderers are advised that the following is the appeal process and in dealing with these appeals the Municipal Manager shall follow the following procedure :-
 - 23.2.1. The appeal (clearly setting out the reasons for the appeal) and queries with regard to decision of award are to be directed to the office of the City Manager, Attention : Mr S. Shezi, P O Box 1014, Durban, 4000; Facsimile : (031) 311-2004.
 - 23.2.2. A copy of the appeal will be forwarded to the Chairperson of the Bid Adjudication Committee, who must provide a response in writing within seven days.
 - 23.2.3. In the event that there are allegations made against third parties, they will also be given an opportunity to respond to the allegations within seven days.
 - 23.2.4. These responses will then be sent to the appellant for a reply within five days.
 - 23.2.5. The appeal will be considered on these written submissions, unless the appeal authority is of the view that there is a need for oral submissions, in which case, the appellant will be notified of the date, place and time of such hearing.
 - 23.2.6. The Appeal Authority will consider the appeal and may confirm, vary or revoke the decision of the Committee, but not such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
 - 23.2.7. The Appeal Authority must commence with the appeal within six weeks and decide the appeal within reasonable period.

24. PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE

- 24.1. Regulation 44 of the Supply Chain Management Regulations states that the Municipality or Municipal Entity may not make any award to a person :-



- 24.1.1. who is in the service of the state;
- 24.1.2. if that person is not a natural person, of which any Director, Manager, Principal, Shareholder or Stakeholder is a person in the service of the state; or
- 24.1.3. who is an advisor or consultant contracted with the municipality or municipal entity.

25. NEGOTIATIONS WITH PREFERRED BIDDERS

- 25.1. The municipality reserves the right to invoke Section 24 of the Municipal Finance Management Act if so desired.
- 25.2. The Accounting Officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation:-
 - 25.2.1. does not allow any preferred bidder a second or unfair opportunity;
 - 25.2.2. is not to the detriment of any other bidder; and
 - 25.2.3. does not lead to a higher price than the bid as submitted.
- 25.3. Minutes of such negotiations must be kept for record purposes.
- 25.4. Such negotiation may be delegated to the designated Senior Manager by the Accounting Officer.

26. PRICE INCREASES

- 26.1. In the event of a price adjustment being requested, a market analysis will be undertaken and pending the outcome thereof, it may or may not be granted.



Section 3 - Introduction

- 1.1 In 2000 the Municipality started laying fibre to various municipal buildings, and to date more than 1000km has been rolled out. The rolling out of fibre is a foundation for creating a connected city in a process of creating a smart city.
- 1.2 In 2004 a project with a project charter was formulated. By 2008 a Next Generation Network (NGN) had been deployed; fibre deployment covered a number of municipal facilities, including offices, depots, clinics, and libraries. By October 2008 a wholesale bandwidth service was made available to third parties. Complementing this, the Municipality had secured an ECNS licence that allows it to wholesale spare capacity to third party licensed service providers.
- 1.3 The eThekweni Municipality has for the past 3 years under a management contract model, contracted with a service provider to maintain and manage its next generation network as well as wholesale spare capacity to licensed third party entities. The contract with the service provider ends in September 2011. The Municipality has to attend urgently to this in a way that does not compromise future efforts.
- 1.4 The past three years represent the first phase of the broadband service. This has resulted in a significant amount of information existing relating to project feasibility, rollout, revenue generation etc. It is intended that the information will be incorporated into the pre-feasibility and feasibility of phase 2 of broadband rollout and broadband service.
- 1.5 This tender invites proposals from a consultant, herein referred to as the "Lead Advisor" to perform advisory and project management functions in lieu of the Municipality securing a partner for the future rollout of broadband and the wholesaling of spare capacity. This entails partnering around layer 1 and layer 2 of the broadband ecosystem. That aspect of the broadband ecosystem not included in layer 1 and layer 2 (i.e. access, services and content) is excluded from this partnership and will be taken up by licensed service providers. The Transaction Advisor will represent a team of suitably and appropriately qualified and experienced project and transaction advisors. Under this appointment, the Lead Advisor will be required to assist the Municipality to document for phase II:
 - 1.5.1 The description and definition of the "**As Is**" current state of the MetroConnect Model and the "**To Be**" desired future state, herein referred to as the pre-feasibility.
 - 1.5.2 Identification and description of options available to move from the current model to the desirable future state herein referred to as the feasibility.
 - 1.5.3 The facilitation of the successful procurement of municipal broadband partner for layer 1 and layer 2.
 - 1.5.4 The facilitation of successfully contracting with a broadband partner.
 - 1.5.5 Project advisory services that complement the Municipality's capabilities to ensure effectiveness and efficiency of the physical and managed layer of the broadband ecosystem infrastructure roll out.
- 1.6 For the whole exercise and for each segment the potential Lead Advisor will be expected to predict duration of phase, and therefore the whole exercise by using "best practice" network analysis techniques, e.g. critical path analysis.
- 1.7 Having identified the critical path, tasks and related risks and costs, peripheral tasks may be performed concurrently, e.g. if procurement is through a PPP, development of the Request for Qualification (RFQ) can be done before Treasury Views and Recommendations is granted. The potential Transaction Advisor must



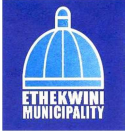
demonstrate the ability to mobilize their resources to achieve the above and other instances where processes may be streamlined.

2. Background

- 2.1 The World Bank conceptualizes broadband as an interconnected, multilayered ecosystem of high-capacity communications networks (core & access), services, applications, and users. Such a definition enables using broadband as a tool in ICT for development especially economic and social development. It also recognizes that supplying networks and its services are not enough; equally, investment in applications and users is required.
- 2.2 In terms of broadband ecosystem infrastructure roll out in South Africa there is no precedent. Furthermore, publicly available information indicates that South Africa is lagging behind and has slipped on all ICT international indices, particularly broadband penetration rates.
- 2.3 In 2009 broadband penetration rates in Malaysia and China was 21%, Australia was 72%, United States was 60%, South Korea was 95%, and South Africa was 2%.
- 2.4 A positive correlation between increased broadband penetration rates and increased economic productivity including increased growth domestic product has been established. Symmetrical bandwidth in excess of 100 Mbps can increase GDP by up to 5% (NextBigFuture). In low and middle income countries every 10% increase in broadband penetration accelerates economic growth by 1.38% (World Bank). A 10% increase in broadband household penetration can boost GDP from 0.1% to 1.4% (McKenzie). A 10% higher penetration translates to 1.5% more labour productivity over 5 years and up to 2% higher GDP (Booz Allen & Hamilton).
- 2.5 As a connected city, EThekwini Municipality will enable e-government services; connect government agencies, businesses and citizens who reside within the Municipality. This will go a long way towards increasing the national broadband penetration rate, economic productivity and growth of both South Africa and EThekwini Municipality.
- 2.6 To achieve this, the Municipality seeks a funding and operational model that ensures that the financing burden of broadband infrastructure is not carried solely by ratepayers, at the same time delivering world-class services to ratepayers and residents.

Section 4 – Municipal Objectives

- 1.1 EThekwini Municipality has a vision of becoming Africa's most caring and liveable city. Through information communications technology (ICT) and in particular broadband, it seeks to make EThekwini a destination of choice to live, work and to do business in by providing world-class communications at affordable prices.
- 2.1 Within the EThekwini Municipality, there is a need for broadband services through the provision of open access for both core and access networks. Investing in broadband infrastructure will increase penetration rates, allowing it to create an ICT environment within EThekwini Municipality that will make it a smart city and a desirable investment destination.



Section 5 - Scope of Requirements

1. Scope

1.1. Segment 1: Pre-feasibility assessment for the project

1.1.1. Documenting the As Is state

- 1.1.1.1. Document from existing sources, the current state of broadband in the Municipality.
- 1.1.1.2. The report should include the Municipal objectives, Municipal broadband infrastructure, market size, market players (public and private), current developments and the state of the industry in municipalities locally and international¹.

1.1.2. Develop the To Be state

- 1.1.2.1. This involves describing, defining and documenting the future desired state for EThekweni Municipality.
- 1.1.2.2. Specifically this should identify all critical success factors including costs, penetration rates, coverage, availability, accessibility and affordability.
- 1.1.2.3. Recapture and re-state” the vision and roadmap for implementing broadband infrastructure in EThekweni Municipality.
- 1.1.2.4. Produce a documented conceptual migration plan that will showing how the move from the current state to the future desirable state will be accomplished.

1.2. Segment 2: Feasibility Assessment and recommendations

1.2.1. Assess Feasibility

- 1.2.1.1. Conduct an analysis that identifies and discusses the strengths and weakness of the feasible options to achieve the “to be” state
- 1.2.1.2. Based on 1.2.1.1 recommend a preferred migration option.
- 1.2.1.3. For the preferred option, capacity to implement in terms of procurement, implementation, contracting and professional project management within the Municipality should be assessed, and for each of the appropriate plan for the Municipality should be formulated. In this regard, the feasibility study should be comprehensive in dealing with procurement, implementation, contracting, and professionally managing the project by the Municipality.
- 1.2.1.4. Once the Municipality approves the report, the preferred option will be implemented.

1.3. Segment 3: Value assessment and Project Procurement

1.3.1. Procure the layer 1 and layer 2² broadband partner

¹ A large amount of work has already been completed, requiring only for the information to be packaged appropriately.

² This is also referred to as physical and managed layers respectively.



- 1.3.1.1. The Municipal Finance Management Act and Supply Chain Management requirements must be complied with, and project deliverables must be aligned with national and provincial government outcomes, and also contribute to economic and social objectives.
- 1.3.1.2. Both conventional public sector procurement (PSC) and/or PPP procurement may be used. Once the Municipality has chosen the procurement method the Lead Advisor will be expected to ensure an effective and efficient procurement process.
- 1.3.1.3. Bidding and contracting processes are critical to subsequent successful implementation, therefore, project procurement documents must be prepared, e.g. request for qualification (RFQ), request for proposal (RFP), and contracts. Other essential bidding and contracting activities like communication, evaluation, negotiation, including others that the Municipality may request from time to time must be performed.

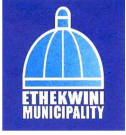
1.4. Segment 4: Contract negotiation

1.4.1. Formulate a contract management plan for the Municipality. This plan must:

- 1.4.1.1. Be fully documented
- 1.4.1.2. Ensure the project will be well managed on behalf of Municipality by utilising Municipality approved project management techniques
- 1.4.1.3. Ensure that there is continued affordability, value for money & transfer of risk during the PPP.
- 1.4.1.4. Ensure both parties understand all contractual obligations.
- 1.4.1.5. Ensure mechanisms exist to verify that all output specifications are met.
- 1.4.1.6. Ensure mechanisms exist to prevent and/or timeously resolve disputes.
- 1.4.1.7. Include a risk management plan.
- 1.4.1.8. Ensure mechanisms exist to monitor private sector performance.
- 1.4.1.9. Include mechanisms to ensure variations and/or changes in the contract are timeously and appropriately managed.
- 1.4.1.10. Include mechanisms to ensure effective communication acceptable to all parties at all levels
- 1.4.1.11. Provide for contract management reviews timeously.
- 1.4.1.12. Ensure provision is made for breach of contract.

1.4.2. Negotiate and conclude agreement

- 1.4.2.1. Ensure compliance with legislative prescripts for long-term contracts.
- 1.4.2.2. Comply with Municipality rules for contracts.
- 1.4.2.3. Ensure the Municipality contract procedures are adhered to at all times.



1.5. Segment 5: Project advisory services

1.5.1. Professional Advice

1.5.1.1. Professional Advisory Services are required throughout this assignment. These services will require skill sets for various segments of the assignment.

Section 6 – Skills Requirement

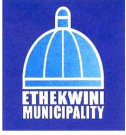
1. Requirements – Critical & Mandatory

The Transaction Advisory service must comprise a team, managed by a single Lead Advisor. The members of the team will have both the skills and experience necessary to undertake the range of tasks set out in this document. Each individual on the team must be personally available to perform the tasks as set out in this Tender, to ensure scope of work deliverables, conduct themselves professionally and ensure integrity of the team. The skills and experience required in the Transaction Advisor team are listed below

No	Requirement
1.	Socio-economic analysis and modelling.
2.	Strategy diagnosis, formulation, and implementation.
3.	ICT technical, legal, financial, economic expertise.
4.	ICT operations and management.
5.	Technical advisor with relevant expertise in data, voice, and video communications.
6.	Broadband infrastructure rollout experience.
7.	Public sector knowledge and experience.
8.	Public sector procurement.
9.	Project management.
10.	Contract management.
11.	Negotiations.
12.	Change management and public relations.
13.	Financial analysis, with relevant PPP and Project Finance experience.
14.	PPP procurement and structuring.
15.	Legal, with relevant South African experience in the drafting and negotiating of PPP agreements.
16.	Empowerment expertise with relevant PPP experience.
17.	The Lead Advisor should be a member of appropriate professional bodies.
18.	The Lead Advisor should have a formal qualification to at least degree level in a relevant field such as Information Technology, Finance or Management. Each team member should be formally qualified in their area of expertise such as Project Management or Law.

1. Management of Transaction Advisory Service

- 1.1. The Lead Advisor will be appointed by the Municipality.
- 1.2. A Project Manager will be appointed by the Municipality to take full responsibility for managing the Lead Advisor's work and for ensuring delivery on the Project.



- 1.3. The Project Manager will establish a Project Management team, to regularly engage with the Lead Advisor for the efficient completion of the various deliverables.
- 1.4. The Project Management team will meet at least bi-weekly and the Transaction Advisor will report progress to these meetings or any other meeting called by the Project Manager as instructed by the Project Manager
- 1.5. The Project Manager will confirm that the Lead Advisor has satisfactorily completed each deliverable by the Transaction Advisor before invoices can be submitted to the Municipality for payment.
- 1.6. **Remuneration schedule and disbursement arrangements**
 - 1.6.1. Remuneration of the Lead Advisor will be payable in South African Rands (ZAR), on a fixed price for each of the five phases. Note that under this assignment the EThekwini Municipality decide to pursue the PPP option, PPP feasibility should be prepared in accordance Municipal PPP Regulation 309. Therefore, each portion of the work should be priced accordingly.
 - 1.6.2. After completion of each phase, the Municipality will decide whether or not to proceed with the next phase. For this purpose, the following remuneration guideline for each phase of the contract is proposed and bidders are requested to price for their services accordingly.

Deliverable	Weight
Segment 1: Pre-feasibility	X1
Segment 2: Feasibility	X2
Segment 3: Procurement	X3
Segment 4: contract management	X4
Segment 5: Project advisory services	X5
TOTAL	100

- 1.7. **Approvals and payment**
 - 1.7.1. Deliverables completed per remuneration schedule will be approved by the Project Manager, after which invoices may be submitted for payment as per remuneration schedule. The Municipality will pay within 30 days of the approved invoice.
 - 1.7.2. All claims for travel and other legitimate disbursement expenditure must be pre-approved by the Project Manager before they are incurred.
 - 1.7.3. An e-mail system for these approvals will be set up when the contract is signed. Pre approved project expenditure on travel outside the country, related reasonable accommodation costs, expenditure on document reproduction or any other legitimate pre-approved project disbursement expenditure will be reimbursed at cost. Payment will be made within 30 days of the Municipality receiving approved and substantiated invoices, and does not form part of the remuneration schedule.

Section 7 – Deliverables

1. Segment 1: Pre-feasibility

1.1. Documenting the As Is state

- 1.1.1. Describe objectives in terms of the EThekwini Municipality economy, priorities, outcomes, and also demonstrate why the municipality must be involved.
- 1.1.2. Provide an analysis of current and relevant legislation, regulations, policies, instructions, guidelines, toolkits, procedures, and approvals, including institutional arrangements that support them.
- 1.1.3. Provide current penetration rates, coverage, affordability, usage and uptake.



- 1.1.4. Provide a description and analysis of current EThekwini Municipality broadband infrastructure, including the value drivers of the broadband infrastructure.
- 1.1.5. Provide the EThekwini Municipality broadband market size, including the rationale of arriving at the figure.
- 1.1.6. Describe and analyze the market players both public and private sector, including the legal mandates and roles of public sector players.
- 1.1.7. Describe and juxtapose the current state of the municipal broadband industry locally and internationally, including financing, procurement and management of critical municipal broadband projects.
- 1.1.8. Describe currently deployed broadband technologies (including open access technologies and standards), management and operational competencies required to support them and a statement on their adequacy.

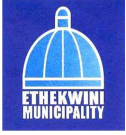
1.2. Develop the To Be state

- 1.2.1. Describe the broadband ecosystem aligning it to objectives in terms of the EThekwini Municipality economy, priorities, and outcomes.
- 1.2.2. Describe a comprehensive legislative and regulatory framework including the supportive institutional changes that will be required to support and sustain it. Include rationale of making such a prescription based on best practice.
- 1.2.3. Provide penetration rates, coverage, affordability, and usage and uptake figures, including a benchmark framework for monitoring and evaluation purposes.
- 1.2.4. Provide a demand analysis in terms of: (1) levels of current and forecast demand for sufficiency in meeting financial and economic feasibility, (2) applications for citizens, public sector (national, provincial, municipal, public entities and constitutional entities) and private sector, (3) usage analysis based on age, education, household income and occupation, (4) usage by services providers and business.
- 1.2.5. Identify critical success factors in value chain activities required for: (1) broadband adoption, (2) conducting an open access infrastructure, (3) information systems (back & front office) integrated on the bases of open internet standards, (4) adopting open core and access broadband networks.
- 1.2.6. Identify economies of scale in size of broadband networks in terms of: (1) network effects as a driver for broadband adoption and usage, (2) vertical levels usage (upstream and downstream in the supply chain), (3) horizontal levels usage (e.g. government to government at all levels), (4) technologies and standards that will be adopted, (5) full life cycle costs.
- 1.2.7. Identify broadband norms and standards that can be prescribed for adoption and usage in EThekwini Municipality, including those for content, applications and services.
- 1.2.8. Develop implementable general ledger broadband municipal codes.
- 1.2.9. Contrast the current and future state, and provide possible options of migration to the future desirable state.

2. Segment 2: Feasibility assessment and recommendations

2.1. Feasibility study.

- 2.1.1. Based on shortlisted options for migration to the future desirable state, identify costs, regulatory changes and institutional arrangements required to support them, management and technical competencies, technologies and standards that will be implemented, and any other related issue that establishes the feasibility of each option.
- 2.1.2. Subject each option to technical, environmental, manpower and administrative, institutional, financial and economic analysis using best practice modeling techniques with models (e.g. cost benefit and cost-effectiveness analysis) and detailed results submitted as annexures.
- 2.1.3. Evaluate each solution option and choose the best solution.
- 2.1.4. Demonstrate alignment with strategic objectives, identify and analyze available budgets.
- 2.1.5. Conduct due diligence on the chosen routes, points of presence and relevant sites.



- 2.1.6. Based on the analysis of mandates and roles of relevant stakeholders, recommend EThekweni Municipality broadband infrastructure governance and management structure with an appropriate administrative staff requirement.
- 2.1.7. Demonstrate commitment and capacity to implement project within the municipality in terms of:
 - 2.1.7.1. Best practice project management practices (e.g., balanced scorecard, PMBOK, etc.).
 - 2.1.7.2. Project processes being aligned to municipal processes.
 - 2.1.7.3. Each deliverable being aligned, and that it meets key stakeholders' expectations in terms of time, costs, and quality, including assessment of risk and potential payoff as high, medium or low.
 - 2.1.7.4. Project outputs being aligned with municipal outcomes and demonstrate that they will be delivered.
 - 2.1.7.5. Scope of work deliverables that are achieved within agreed costs, timelines and quality given available personnel within the municipality.

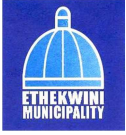
2.2. EThekweni Municipality broadband project plan.

- 2.2.1. Detail the schedule of activities regarding the broadband layer 1 and layer 2 rollout. Networks include both core and access networks

2.3. Project Viability

- 2.3.1. Establish affordability over the term of the project.
 - 2.3.1.1. What are the levels of service and facilities required for a sustainable project in meeting the needs of the Municipality?
 - 2.3.1.2. What is the extent of potential private sector involvement and possible investment in the project given its nature and potential revenue generation, if any?
 - 2.3.1.3. What Municipality contribution is possible and what would the impact and timing of such contribution be.
 - 2.3.1.4. What can the Municipality afford in terms of existing budgets and could savings be made against the current expenditure, taking into account the developments surrounding broadband infrastructure services provision in the country.
 - 2.3.1.5. What human resource arrangements would be needed and what would the impact of such arrangements on the project be.
 - 2.3.1.6. The possibility of revenue generation, if any and potential investment to enable such income generation.
- 2.3.2. Establish value for money (VFM) to municipality.
 - 2.3.2.1. VFM takes two forms, firstly as a comparison of private sector provision (PPP Reference) with a public sector comparator (PSC);
 - 2.3.2.2. The second analysis is extracting maximum value through a well-structured, risk allocation and well-managed competitive procurement process; and
 - 2.3.2.3. It should be noted that contract duration is a critical driver of VFM which has to be one of the scenarios tested and determined.
- 2.3.3. Establish risk transfer.
 - 2.3.3.1. Identify the Project risks and the probability of these risks occurring, possible mitigating strategies as well as the party best able to manage the identified risk.
 - 2.3.3.2. A comprehensive and detailed risk matrix should be developed and priced. Substantial risks should be transferred to the private sector as far as possible, with the appropriate risk mitigation, if it provides value for money to the Municipality; and
 - 2.3.3.3. The development of a well thought through detailed risk matrix during phase 2 is important for the success of the Project and should be the instrument measuring the movement of risk during the procurement and negotiation process to the final agreed risk positions in the PPP agreement.
- 2.3.4. Obtain Treasury Views and Recommendations

2.4. Broadband financing and budgeting



- 2.4.1. Establish a financial model required for broadband projects that cover layer 1 and layer 2 of the broadband ecosystem Establish a detailed broadband project evaluation and monitoring tool.
- 2.4.2. Provide a recommended funding framework including funding sources and funding mix.

2.5. Project due diligence

- 2.5.1. Identify legal issues that directly affect the project (including routes, points of presence and other relevant sites) and how to resolve them.

3. Segment 3: Value Assessment and Project Procurement

3.1. Value assessment and project procurement choice

- 3.1.1. Construct a risk-adjusted Public Sector Comparator (PSC) model.
- 3.1.2. Construct a risk-adjusted Public Private Sector (PPP) reference model.
- 3.1.3. Perform a sensitivity analysis.
- 3.1.4. Demonstrate affordability.
- 3.1.5. Demonstrate value for money.
- 3.1.6. Make the procurement choice between PSC and PPP.

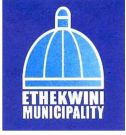
3.2. Project procurement plan

- 3.2.1. Provide a project timetable with key milestones.
- 3.2.2. List potential project challenges and how they will be handled.
- 3.2.3. Identify documented information to be made available to bidders and how they will be developed.
- 3.2.4. Identify all approvals required from within and outside the Municipality.
- 3.2.5. Identify the bid evaluation process and teams.
- 3.2.6. Advise on a quality assurance process for procurement documentation.
- 3.2.7. Establish and maintain audit trail for procurement.
- 3.2.8. Establish appropriate security and confidentiality systems.
- 3.2.9. Assist the Municipality to obtain a suitable number of pre-qualified bidders by means of a simple yet thorough and well-managed pre-qualification process.
- 3.2.10. Obtain Treasury Views and Recommendations for tender documents including a Request for Proposal and the draft PPP agreement and output specifications covering the technical requirements of the Broadband infrastructure and services.
- 3.2.11. Assist the Municipality in the evaluation of proposals and appointment of the preferred and reserve bidders.
- 3.2.12. Prepare and support the Municipality with the management of an efficient and effective best and final offer (BAFO) bidding process, if necessary.
- 3.2.13. Obtain Treasury Views and Recommendations demonstrating that the bids received meet the affordability, value for money and risk transfer criteria established in the feasibility study report set out in the procurement documentation.
- 3.2.14. Assist the Municipality in bringing the project to contractual close and financial close through a negotiation process to refine the identified value for money drivers identified and as per the proposals received.

4. Segment 4: Contracting

4.1. Draft contract

- 4.1.1. Produce a draft contract for consideration by the Municipality



- 4.1.2. Obtain Treasury Views and Recommendations for the PPP agreement, indicating the movement in risk from feasibility study to final negotiated position, prior to contractual close.
- 4.1.3. Provide the Municipality with a contingent liability report; and
- 4.1.4. Prepare a close out report as per National Treasury Guidelines.

Section 8 – Bid Evaluation Criteria

1. Bid evaluation criteria

- 1.1. Evaluation is in two phases and will be based on a point system. The following are the maximum number of points that can be awarded for each category, and the threshold score for each category:
- 1.2. The Technical proposal will be evaluated out of 100 points with a Threshold of 70. Only submissions that pass the Technical Threshold will continue on the Financial and BEE evaluation.

Phase	Category	Maximum Points	Threshold score
1	Technical Proposal	100	70
2	BEE Proposal	20	
	Price Proposal	80	
	Total	200	

- 1.3. Technical Proposal
- 1.3.1. Technical Proposals received will be evaluated according to the following criteria and scoring system. The Technical Score will be calculated out of 100 points, and only those bids that achieve a threshold of 70 points for the technical proposal will move to the next level of evaluation where a score for price and HDI will be allocated out of 100.

	Criteria	Maximum points	Weighting
	TECHNICAL PROPOSAL		
1.	Financial analysis and project finance - Skills - Relevant experience	Excellent = 9 Satisfactory = 7 Poor = 4	10
2.	Legal - Skills - Relevant experience including PPP	Excellent = 8 Satisfactory = 5 Poor = 3	8
3.	Technical - Skills - Relevant experience	Excellent = 6 Satisfactory = 4 Poor = 2	6
4.	Technical skills and experience appropriate to project Phases deliverables - Pre-feasibility(20) - Feasibility (20) - Project procurement (20) - Implementation & contract management (20) - Programme advisory services (20)	Excellent = 40 Satisfactory = 30 Poor = 10	40
5.	PPP procurement and structuring – relevant experience	Excellent = 6	



	Criteria	Maximum points	Weighting
	and track record	Satisfactory = 4 Poor = 2	6
6.	Negotiations – relevant experience and track record	Excellent = 5 Satisfactory = 3 Poor = 2	5
7.	Quality of project comprehension demonstrated in proposals for design and development of PPP models	Excellent = 9 Satisfactory = 7 Poor = 4	10
8.	Quality of proposed Work Plan, project management approach and time-table for the project	Excellent = 9 Satisfactory = 7 Poor = 4	10
	Lead advisor’s availability for the work	Excellent = 5 Satisfactory = 3 Poor = 2	5
	TOTAL TECHNICAL POINTS		100
9.	Technical Threshold Score		70

Evaluation will be based on Table 1 below.



EVALUATION CRITERIA	SUB CRITERIA	Table 1- INDICATORS		
		Poor	Satisfactory	Excellent
Financial Analysis & Project Finance	Skills	Key personnel have s limited experience in projects of a similar nature and has not undertaken a project of this magnitude	The tenderer has relevant experience in projects of a similar nature but has not directly undertaken a project of this magnitude	The tenderer has extensive experience in projects of a similar nature, and has directly undertaken similar projects
	Relevant Experience	Key personnel allocated to the project have less than three years relevant experience	No Key personnel allocated to the project have less than three years relevant experience	All Key personnel allocated to the project have greater than five years relevant experience
Legal	Skills	Key personnel have s limited experience in projects of a similar nature and has not undertaken a project of this magnitude	The tenderer has relevant experience in projects of a similar nature but has not directly undertaken a project of this magnitude	The tenderer has extensive experience in projects of a similar nature, and has directly undertaken similar projects
	Relevant Experience	Key personnel allocated to the project have less than three years relevant experience	No Key personnel allocated to the project have less than three years relevant experience	All Key personnel allocated to the project have greater than five years relevant experience
ICT Technical	Skills	Key personnel have s limited experience in projects of a similar nature and has not undertaken a project of this magnitude	The tenderer has relevant experience in projects of a similar nature but has not directly undertaken a project of this magnitude	The tenderer has extensive experience in projects of a similar nature, and has directly undertaken similar projects
	Relevant Experience	Key personnel allocated to the project have less than three years relevant experience	No Key personnel allocated to the project have less than three years relevant experience	All Key personnel allocated to the project have greater than five years relevant experience
Technical Skills linked to deliverable	Skills	Key personnel have s limited experience in projects of a similar nature and has not undertaken a project of this magnitude	The tenderer has relevant experience in projects of a similar nature but has not directly undertaken a project of this magnitude	The tenderer has extensive experience in projects of a similar nature, and has directly undertaken similar projects
	Relevant Experience	Key personnel allocated to the project have less than three years relevant experience	No Key personnel allocated to the project have less than three years relevant experience	All Key personnel allocated to the project have greater than five years relevant experience



EVALUATION CRITERIA	SUB CRITERIA	Table 1- INDICATORS		
		Poor	Satisfactory	Excellent
PPP Procurement & Structuring	Skills	Key personnel have s limited experience in projects of a similar nature and has not undertaken a project of this magnitude	The tenderer has relevant experience in projects of a similar nature but has not directly undertaken a project of this magnitude	The tenderer has extensive experience in projects of a similar nature, and has directly undertaken similar projects
	Relevant Experience	Key personnel allocated to the project have less than three years relevant experience	No Key personnel allocated to the project have less than three years relevant experience	All Key personnel allocated to the project have greater than five years relevant experience
Negotiation	Skills	Key personnel have s limited experience in projects of a similar nature and has not undertaken a project of this magnitude	The tenderer has relevant experience in projects of a similar nature but has not directly undertaken a project of this magnitude	The tenderer has extensive experience in projects of a similar nature, and has directly undertaken similar projects
	Relevant Experience	Key personnel allocated to the project have less than three years relevant experience	No Key personnel allocated to the project have less than three years relevant experience	All Key personnel allocated to the project have greater than five years relevant experience
Response to proposal	Understanding of Requirement	The proposal shows limited understanding of the programme requirement, has not adequately dealt with the key challenges.	The opportunity is well understood, clearly articulated and key requirements are adequately addressed. The proposal reflects necessary concepts but has insufficient innovation for it to be distinctive..	The proposal clearly demonstrates an understanding of the programme's vision All key business criteria are identified and adequately addressed. The proposal is distinctive in it's understanding of the programme requirement.
	Work Plan	The proposal does not address many of the criteria identified in the brief. The methodology is weak in important areas and is unlikely to meet the programme requirements.	The proposal meets most of the criteria listed in the brief. The proposed methodology is in line with standard practice, covers the key aspects and should meet the programme requirements	The proposal meets all the criteria listed in the brief. The proposed methodology is detailed and well conceived, has made allowance for key aspects and risk areas. It meets programme requirements. Some degree of innovation has been introduced
Availability of Lead Advisor		➤ 30 Days	30 Days	Immediate



1.4. BEE Proposal

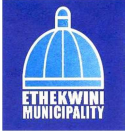
1.4.1. South African entities will be evaluated and scored for their proposals in respect of the Black Economic Empowerment Proposal as set below. The requirement for compliance with the Black Economic Empowerment Proposal will not apply to non-South African registered entities though it is a requirement that such entities partner with South African entities.

BEE scorecard				
Criteria		Maximum score	Scoring	Weighting
1	The percentage of Black People playing leading professional roles in the Transaction Advisor consortium	5	25% - 35% = 3 >35% = 5	6
2	The percentage of black equity in the Transaction Advisor consortium	5	25% - 35% = 3 >35% = 5	6
3	A credible plan for structuring effective BEE all stages, with necessary skill and experience in the team	5	Poor plan, poor skill & experience = 1 or 2 Incomplete plan, limited skill & experience = 2 or 3 Credible plan, skill & experience = 4 or 5	4
4	A credible plan for skills transfer within the consortium to directly benefit Black professionals inexperienced in all stages (may specify targeting of Black People within a geographic area)	5	Poor plan = 1 or 2 Incomplete plan = 2 or 3 Credible plan = 4 or 5	4
Total BEE points		20		

1.5. Financial Proposal

1.5.1. Having concluded the above process, the remaining bids will be allocated Financial Proposal points pro-rata in accordance with the formula prescribed in the regulations promulgated in terms of the Preferential Procurement Policy Framework Act.

Indicate the minimum criteria that service providers should meet in order to be considered:



The Transaction Advisory service will comprise a team, managed by a single Lead Advisor. The members of the team will have both the skill and experience necessary to undertake the range of tasks set out in this Terms of Reference. Each individual on the team must be personally available to do in terms of the Contract, ensure scope of work deliverables, conduct themselves professionally and ensure integrity of the team. The skills and experience required in the Transaction Advisor team are listed below

- Socio-economic analysis and modelling.
- Strategy diagnosis, formulation, and implementation.
- ICT technical, legal, financial, economic expertise.
- ICT operations and management.
- Technical advisor with relevant expertise in data, voice, and video communications.
- Broadband infrastructure rollout experience.
- Public sector knowledge and experience.
- Public sector procurement.
- Project management.
- Contract management.
- Negotiations.
- Change management and public relations.
- Financial analysis, with relevant PPP and Project Finance experience.
- PPP procurement and structuring.
- Legal, with relevant South African experience in the drafting and negotiating of PPP agreements.
- Empowerment expertise with relevant PPP experience.
- The Lead Advisor should be a member of appropriate professional bodies.
- The Lead Advisor should have a formal qualification to at least degree level in a relevant field such as Information Technology, Finance or Management. Each team member should be formally qualified in their area of expertise such as Project Management or Law.

Section 9 – Bid Submission

1. Bid submission requirements

Bidders are required to submit their proposals in the following format:

Technical Proposal

Must be marked with the name of the Transaction Advisor and titled: **TECHNICAL PROPOSAL: TRANSACTION ADVISORY SERVICES TO ETHEKWINI MUNICIPALITY FOR ADVISING ON THE CURRENT METROCONNECT PROJECT AND A POSSIBLE TRANSITION TO A DESIRABLE BROADBAND INFRASTRUCTURE BY PROCUREMENT THROUGH A PUBLIC PRIVATE PARTNERSHIP.**

This envelope must contain at least the following:

Covering letter signed by the Lead Advisor containing, inter alia:

- Acceptance of the Rules of Tendering, Evaluation of Tenders, and Tender Evaluation Criteria set out in the Terms of Reference.
- A Tax Clearance Certificate from South African Revenue Services in respect of the lead Transaction Advisor and all South African firms to be sub-contracted to it for this assignment.



- A Tax Clearance Certificate for each of the South African firms participating as a partner in a joint venture for purposes of this bid.
- Full contact details for the lead Transaction Advisor.
- Information on and motivation for the lead Transaction Advisor, attaching his/her curriculum vitae, and setting out his/her personal, and his/her firm's:
 - Suitability for this assignment.
 - Relevant skills and experience. For each relevant experience cited, outline the precise role the lead Advisor played, the role of the firm, contract duration, contract outcomes, and contract value.
 - Availability to perform the work. This must be substantiated by listing the lead Transaction Advisor's other known professional commitments for the forthcoming two years.
 - Project comprehension and project management plan, setting out:
 - The Transaction Advisor's understanding of the Terms of Reference and any proposals for amendments to the Terms of Reference that could enhance the desired outcomes.
 - How the Transaction Advisor proposes to manage the set of deliverables outlined in the Terms of Reference.
 - A proposed outline Work Plan with delivery time-table and milestones.
 - The suitability of each person in the team for the proposed roles in terms of their relevant skills and experience cross referenced to each deliverable as set out in this tender.
 - The availability of each person to perform the work.
 - How the Advisory Team members will be supervised.
 - Proposal on how reporting to the Project Manager will take place.
 - Any innovative ideas for how the whole assignment can best achieve its objectives.

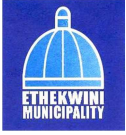
The Technical Proposal must not include any Price or BEE Proposal.

BEE Proposal

Must be marked with the name of the Lead Advisor and titled: **BEE PROPOSAL: TRANSACTION ADVISORY SERVICES TO ETHEKWINI MUNICIPALITY FOR ADVISING ON THE CURRENT METROCONNECT PROJECT AND A POSSIBLE TRANSITION TO A DESIRABLE BROADBAND INFRASTRUCTURE BY PROCUREMENT THROUGH A PUBLIC PRIVATE PARTNERSHIP.**

This envelope must contain:

- Names and BEE status of all proposed team members, and their firms, setting out:
 - The professional role that each person will play in the assignment. This must be cross-referenced to each deliverable set out in this tender.
 - The suitability of each person for the proposed roles in terms of their relevant skills and experience.
 - Their availability to perform the work.
 - One-page résumés of each person highlighting responsibilities held for experience relevant to this assignment in the last 5 years.
 - Summary of the percentage of Black South African professionals on the team, clearly showing the roles they will play in the Advisory team.
 - Experience to structure a credible plan for effective BEE for the proposed project.
 - Experience to structure a credible plan for skills transfer within the proposed project to benefit local Black Professionals.
 - The BEE shareholder equity in the lead Transaction Advisor's company.



Financial Proposal

Must be marked with the name of the Lead Advisor and titled: **FINANCIAL PROPOSAL: TRANSACTION ADVISORY SERVICES TO ETHEKWINI MUNICIPALITY FOR ADVISING ON THE CURRENT METROCONNECT PROJECT AND A POSSIBLE TRANSITION TO A DESIRABLE BROADBAND INFRASTRUCTURE BY PROCUREMENT THROUGH A PUBLIC PRIVATE PARTNERSHIP.**

This envelope must contain:

- Proposed remuneration for professional fees, specifically
- A remuneration proposal, in the remuneration format outlined at 6.2 above, giving professional cost per deliverable item (indicate hours and hourly rates) and total for each Part as indicated.
- VAT specified separately as a total for each Phase
- While VAT will be paid pro-rata for each delivery item in each Phase of the assignment, it should be indicated as a total sum per Phase for purposes of this submission.
- Itemisation of fees payable to each member of the consortium.
- An estimation of anticipated disbursement costs per Phase of work. This information will not be held to this amount.
- A marked up version of the Draft Transaction Advisor Contract, attached as Annexure B, including the proposed remuneration, which must be submitted as part of the Price Proposal.

2. Compulsory Briefing Session

The Municipality will hold a Briefing Session on the Terms of Reference, which all potential Transaction Advisors are required to attend and to register their interest in submitting proposals. The list of attendees will be circulated to all present to encourage the formation of appropriate consortia. No party registering interest is however, bound to submit a proposal.

The details are given below:

Date: 8th February 2012

Time: 10.30am

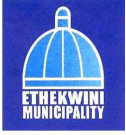
Venue: Geographic Information and Policy Unit
2nd Floor,
Rennies House,
41 Margret Mncadi St.
Durban

Attendance must be confirmed by email to:

ISQUOTES@durban.gov.za

Section 10 – Procurement Policy

Respondents are cautioned that the adjudication process will be undertaken in accordance with eThekweni Municipality's Targeted Procurement policy and thus it is essential that respondents claiming affirmative procurement preference complete documents entitled "Application for Registration on the EM Proc database" and "Application for Targeted Enterprise Status" which can be downloaded from the municipality's website:



<http://www.durban.gov.za/durban/government/scm/accredited>

For assistance in the completion thereof, prospective respondents should contact the Manager: Procurement Monitoring, tel. 031-3227014.

Respondents are cautioned that in the event of incorrect and/or fraudulent claim(s) for Targeted Enterprise status being submitted under this enquiry, such claim(s) shall automatically disqualify the applicable proposal from further considerations.

Furthermore, should the claim be found to be fraudulent, either at the point of proposal adjudication or at anytime thereafter, the respondent shall be disqualified from all future (eThekweni Municipality) tender adjudication process/contracts for a minimum period determined by eThekweni Municipality.

Respondents should also be fully aware that it is primarily their responsibility to understand the relevant criteria, definitions and interpretations that are necessary to comply with the Targeted Procurement Policy before claiming Targeted Procurement status.

Section 11 – BEE Scorecard

The eThekweni Municipality has committed itself to the following key priorities with respect to all procurement dealings.

- Increased Usage of local Resources
- Redressing of skewed employment and ownership patterns through black economic empowerment
- Creation of Opportunities for job creation and poverty alleviation (Community Participation)
- Stimulation of Skills Development and Transfer
- Fast tracking and Growth and ensuring sustainability of SMME's

It has therefore tried to keep abreast of developments nationally with regard to Black Economic Empowerment in terms of the recent revision of its own procurement policy and legislation such as:

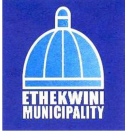
- Constitution of the RSA
- Preferential Procurement Policy Framework Act
- Broad-Based Black Economic Empowerment Act
- Construction Industry Development Board Act
- Employment Equity Act
- Skills Development Act

For the purposes of determining the degree of preference to be accorded to tenderers, and to set minimum targets, the eThekweni has chosen a multi-pronged empowerment strategy, which includes inter-alia the following:

1. A BEE Scorecard
2. A preferential points scoring mechanism.

This document therefore outlines the specification.

Definitions



Historically Disadvantaged Individual (HDI): The definition includes Black, Women, and Disabled Individuals and preference has been given to all these target groups who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act no 110 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act No 200 of 1993) (the Interim Constitution). Provided that a person, who obtained South African citizenship on or after the coming to effect of the Interim Constitution, is deemed not to be an HDI.

Priority Population Group (PPG): Black Individuals who fall into population groups that were not offered a franchise in the national elections before or after the introduction of the 1984 tri-cameral parliamentary system and only received a franchise during 1994.

Black Business Enterprise (BBE): At least 26% Black Owned in terms of equity and voting rights/powers, with a corresponding management representation at all levels.

Priority Business Enterprise (PBE): At least 26% Owned by individuals which are from the Priority Population Group in terms of equity and voting rights/powers, with a corresponding management representation at all levels.

Women Business Enterprise (WBE): At least 26% Women Owned in terms of equity and voting rights/powers, with a corresponding management representation at all levels.

Disabled Persons Business Enterprise (DPBE): At least 26% Disabled Owned in terms of equity and voting rights/powers, with a corresponding management representation at all levels.

“Disability” means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being.

SMMEs: Small, Medium and Micro Enterprises.

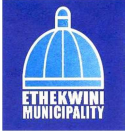
Influenced Enterprise: 'Influenced' in a category is when ownership in that particular category is between **26 and 50 percent**, with corresponding management representation at Board, Executive and Operational levels.

Empowered Enterprise: 'Empowered' in a category is when ownership in that particular category is between **51 and 75 percent**, with corresponding management representation at Board, Executive and Operational levels.

Substantially Owned Enterprise: 'Substantially owned' in a category is when ownership in that particular category is between **76 and 100 percent**, with corresponding management representation at Board, Executive and Operational levels.

Local Content/Resources: Preference points shall be allocated in terms of the location of the enterprise where applicable in the following order of preference: eThekweni Municipality Area (EMA); Kwa Zulu Natal (KZN); South Africa (SA)

Commercially Useful Function: The performance of real and actual work, or the provision of services, in the discharge of any contractual obligation, which shall include but not be limited to the performance of a distinct



element of work which the business has the skill and expertise to undertake, and the responsibility for management and supervision.

Contract: A legally binding agreement between the Employer and the Contractor for the latter to provide Goods, Services, Engineering and Construction Works, or Professional Services in return payment by the former.

Contractor: Any person, body, or legal entity who is under contract to the Employer for the performance of the Contract. A Tendered whose tender has been accepted becomes a Contractor.

Control: The possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous exercise of appropriate managerial authority and power in determining the policies and directing the operations of the business.

Contract Participation Goal (CPG): The value of work subcontracted to enterprises or businesses factored according to their level of HDI/PPG Equity ownership as evaluated in terms of the eThekweni Municipality Targeted Procurement Policy

Direct Preference: A preference points system, which awards tenders on the basis of points for price and/or the procurement developmental objectives of the eThekweni Municipality.

Employer: The person or body entering into a Contract for the supply of Goods, Services, Engineering and Construction Works, or Professional Services.

Executive Director: A partner in a partnership, a director of a company established *in* terms of the Companies Act, 1973 (Act 61 of 1973) or a member of a close corporation registered *in* terms of the Close Corporation Act, who, jointly and severally with their other partners, co-directors or co-members, as the case may be, bears the risk of business and takes responsibility for the management and liabilities of the partnership, company, or close corporation.

Manufacturer: A firm that operates or maintains a factory or establishment that produces on its premises materials or supplies required by the Prime Contractor for the performance of the Contract.

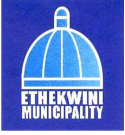
Owned: Having all the customary incidents of ownership, including the right of disposition, and sharing all the risks and profits. Commensurate with the degree of ownership interests as demonstrated by an examination of the substance, rather than the form of ownership arrangements.

Preferential Procurement Policy: A procurement policy which uses procurement as an instrument of social policy in South Africa to affirm the changed environment, government's socio-economic objectives and the principals of the Preferential Procurement Policy Framework Act (2000).

Prime Contractor: A contractor who contracts with an employer as the principal or main contractor or as a joint venture partner to such contractors, to provide goods, services and works.

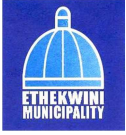
Supplier: A firm that:

- Owns, operates or maintains a store, warehouse or other establishment in which materials or supplies are bought, kept in stock and regularly sold to the public in the usual course of business and



- Engages as its principal business, and in its own name, in the purchase and sale of products

Targeted Procurement: A system of procurement which provides employment and business opportunities for marginalized individuals and communities enables procurement to be used as an instrument of social policy in a fair, equitable, competitive, transparent and cost-effective manner, and permits and social objectives to be quantified, measured, verified and audited.



Section 12 – Required Documentation

CONTRACTOR ACKNOWLEDGEMENT OF RESPONSIBILITY IN TERMS OF THE OCCUPATIONAL HEALTH AND SAFETY ACT

ENQUIRY 1A-7391

Written agreement between **eTHEKWINI Municipality** (the “employer”)

AND

.....(the “mandatary”)

as provided for in terms of Section 37 (2) of the Occupational Health and Safety Act No. 85 of 1993 as amended by Act 181 of 1993.

I hereby declare that I,, am authorised to represent the “mandatary” and acknowledge that the “mandatary” is an employer in its own right with all duties and responsibilities as prescribed in the Occupational Health and Safety Act no. 85 of 1993.

I agree to ensure that all work performed or machinery and plant used by the “mandatary” on any eTHEKWINI Municipality premises shall be in accordance with the provisions of the said Act.

Furthermore, I agree the “mandatary” shall comply with all eTHEKWINI Municipality site rules and safety, health, and environmental requirements as may be communicated or stipulated by eTHEKWINI Municipality prior to and during the course of any Contract awarded to the ‘mandatary’ by ETHEKWINI Municipality.

Furthermore, I undertake to ensure that eTHEKWINI Municipality is timeously informed should the “mandatary”, for whatever reason, be unable to perform in terms of this agreement.

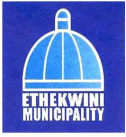
Signed this.....day of200.....

On behalf of the “mandatary” (print).....

(sign)

On behalf of the “employer” (print)

(sign)



SBD 4

DECLARATION OF INTEREST

1. Any legal person, including persons employed by the principal, or persons having a kinship with persons employed by the principal, 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 employed by the principal, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority and/or take an oath declaring his/her interest, where-

- the bidder is employed by the principal; and/or
- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

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

2.1 Are you or any person connected with the bidder, employed by the principal? **YES / NO**

2.1.2 If so, state particulars.

2.2 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the principal and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

2.2.1 If so, state particulars.

2.3 Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between the bidder and any person employed by the principal who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

2.3.1 If so, state particulars.

DECLARATION

I, THE UNDERSIGNED (NAME).....
CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2.1 TO 2.3.1 ABOVE IS CORRECT. I ACCEPT THAT THE PRINCIPAL MAY ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

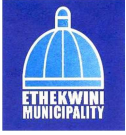


SIGNATURE

DATE

POSITION

NAME OF BIDDER



DECLARATION OF MUNICIPAL FEES

ENQUIRY 1A-7391

I/We do hereby declare that the Municipal Fees of _____, are, as at the date of the tender closing, fully paid up, or arrangements have been concluded with the Municipality to pay the said fees :-

<u>Account</u>	<u>Account Number</u>
Electricity	}
Water	}
Rates	} to be completed by tenderer
Joint Service Board Levies	}

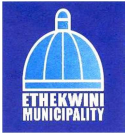
I/We acknowledge that should it be found that the Municipal Fees are not up to date, the Council may take such remedial action as it required, including termination of contract, and any income due to the contractor shall be utilised to offset any monies due to the Council.

NAME

SIGNATURE

DESIGNATION

DATE



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:
eThekweni Municipality

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 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.
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.
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.

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.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder