



# Determination of Traditional/ Umtelebelo Racecourse Operator Licences

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## INVITATION TO TENDER

*"Traditional/ Umtelebelo Horseracing" means a horse race in which standardbred horses or any other breed may compete ridden under saddle of a natural person at a racecourse operated by a licensed traditional horseracing operator.*

## DEFINITIONS

In this Determination of Traditional/ Umtebelo Horseracing and Invitation to Tenders, including the appendices and annexures thereto, unless the content indicates otherwise:

**Act** means the KwaZulu-Natal Gaming and Betting Act, 2010 (Act No. 8 of 2010), as amended.

**Applicant** means a person who applies for a racecourse operator's licence pursuant to this Invitation to Tender.

**B-BBEE** means Broad-Based Black Economic Empowerment, as envisaged in the Broad-Based Black Economic Empowerment Act, 2003 (Act No.53 of 2003) and the Codes of Good Practice on Black Economic Empowerment, issued under section 9(1) of thereof.

**B-BBEE Act** means Broad-Based Black Economic Empowerment Act, 2003 (Act No 53. of 2003)

**Bet** means an agreement between two persons whereby one person stakes money or a valuable thing with the other person on the outcome of a horse race, sporting event or other event or contingency, or on the cumulative outcome of a combination of horse races, sporting events or other events or contingencies and that outcome or cumulative outcome determines the financial benefit, if any, which accrues to either of those persons, and "to bet" and "betting" have a corresponding meaning as defined in the Act;

**Black Persons** means a Black Person as defined in the B-BBEE Act.

**Black Designated Groups** means Black Designated Groups as defined in the B-BBEE Codes of Good Practice issued on 11 October 2013 under Government Gazette No 36928 Vol 580.

**Board** means the KwaZulu-Natal Gaming and Betting Board, established in terms of section 5 of the Act.

**Race meeting** means any gathering off the public to watch a horse race or horse races.

**Traditional Racecourse operator** a corporate body licensed in terms of section 89 to hold race meetings at one or more racecourses.

**Racecourse operator licence** means a licence issued in terms of section 89 to a corporate body and which authorises the licence holder to hold race meetings at one or more racecourses.

**Traditional Umtebelo Horseracing** means a horse race in which standardbred horses or any other breed may compete ridden under saddle of a natural person at a racecourse operated by a licensed horseracing operator.

<b>Chairperson</b>	means the chairperson of the Board or of a committee of the Board, as the case may be, and includes a person who is acting as chairperson;
<b>Chief Executive Officer</b>	means the person appointed to this position in terms of section 23(1) of the Act;
<b>Committee</b>	means a committee established by the Board in accordance with section 18 of the Act;
<b>District / Local Municipality</b>	means an area in the Province determined by the Municipal Demarcation Board in terms of the Municipal Demarcation Act, 1998 to be either a metropolitan, district or local municipality;
<b>Local person</b>	means a natural person whose normal residence and or employment is within the Province or a juristic person in whom the majority ownership and beneficiation is ultimately held or accrues to natural persons whose normal residence and or employment is within the Province;
<b>Minor</b>	means a person under the age of 18 years;
<b>National Act</b>	means the National Gambling Act, 2004 (Act No. 7 of 2004);
<b>New Entrants</b>	means a person who is not currently an owner or an employee of a racecourse operator licensed by the Board
<b>Person</b>	includes a partnership, association, trust or a juristic person established by or in terms of any law.
<b>Province</b>	means the Province of KwaZulu-Natal as referred to in section 103 of the Constitution of the Republic of South Africa, 1996 (Act No.108 of 1996);
<b>Provincial Revenue Fund</b>	means the fund established for the Province by section 226 of the Constitution of the Republic of South Africa, 1996;
<b>RFP</b>	This Determination of Traditional Horseracing licences and Invitation to Tender document;
<b>Regulations</b>	means the KwaZulu-Natal Gaming and Betting Regulations, 2012, as may be amended from time to time;
<b>Responsible Member of the Executive Council</b>	means the Member of the Executive Council for Economic Development in the Province of KwaZulu-Natal (the MEC for Economic Development in KwaZulu-Natal) or that Member of the Executive Council of the Province of KwaZulu-Natal to whom the Premier has assigned the administration of the Act;
<b>Rules</b>	means rules made by the Board in terms of section 7 of the Act;

<b>SANS Specifications</b>	standards set by the South African Bureau of Standards, specifying the technical requirements for gambling equipment;
<b>Small, Medium and Micro-sized Enterprise</b>	means a business enterprise commonly regarded as small, medium and/or micro-sized in terms of legislation in the Republic of South Africa;
<b>SMME</b>	means a Small, Medium and Micro-sized Enterprise as defined in this document and SMMEs has a corresponding meaning.
<b>Traditional / Umtebelo Horse Racing Association</b>	means a KwaZulu-Natal registered association with a formal constitution and properly constituted rules and regulations for the running of traditional / Umtebelo horse races.

## INTRODUCTION

- 2.1 Section 6 of the KwaZulu-Natal Gaming and Betting Act (Act No. 8 of 2010 as amended ), sets out specific objectives for the Board. In light thereof, this RFA has been designed to help the Board achieve some of these objectives by:-

Providing opportunities for Black people to participate in the horseracing and related gambling industry as licensees; Supporting the development of the Traditional / Umtebelo Horseracing Sector; Providing a regulatory framework for the Traditional / Umtebelo Horseracing Sector;

Promoting economic development in the Province;

Facilitating the creation of employment opportunities in areas where Traditional / Umtebelo Horseracing takes place;

Promotion of opportunities for SMME and Enterprise Development;

Increase in fiscal / tax revenues for the Province; and provision of entertainment and recreational activities for members of the public.

- 2.2 In recognition of the contribution to social and economic development of the Province that is being made by the traditional/Umtebelo horseracing, the KwaZulu-Natal Gaming and Betting Board has considered expanding entertainment and economic opportunities in the horse racing sector, and thereby invites bids for Racecourse Operators Licences from the Traditional / Umtebelo Horseracing Associations in the Province. This will assist the Board in achieving the following objectives:-

- to diversify and expand the existing horseracing sector by providing Traditional/Umtebelo Horseracing licences to the areas determined by the Board;
- to facilitate the licensing of racing associations within the various districts of KwaZulu-Natal
- to create needed new job opportunities in previously disadvantaged areas;
  - To support the traditional equine sector through a licence can access financial assistance to the transformation fund
  - To allow for the inclusion of THR Racecourse Operators into regulating framework

- To provide access for traditional equine race, race owners, associations, trainers, breeders and anyone who administres the sport
- to contribute to the eradication of illegal gambling in the Province; and
- to promote the ideals of B-BBEE, by increasing the participation of women and designated groups in the horseracing industry.

2.3 The Board acknowledges that traditional/umtelebelo horseracing is already taking place and organised in the following districts and local municipalities:-

**1. AMAJUBA DISTRICT**

Dannhauser Local Municipality; eMadlangeni Local Municipality and Newcastle Local Municipality

**2. HARRY GWALA DISTRICT**

Dr Nkosazana Dlamini Zuma Local Municipality; Greater Kokstad local Municipality, Ubuhlebezwe Local Municipality and uMzimkhulu Local Municipality

**3. ILEMBE DISTRICT**

KwaDukuza Local Municipality, Mandeni Local Municipality, Maphumulo Local Municipality and Ndwedwe Local Municipality

**4. KING CETSHWAYO DISTRICT**

City of uMhlatuze Local Municipality, Mthonjaneni Local Municipality, Nkandla Local Municipality, uMfolozi Local Municipality and uMlalazi Local Municipality

**5. UGU DISTRICT**

Ray Nkonyeni Local Municipality, Umdoni Local Municipality, Umuziwabantu Local Municipality and Umzumbe Local Municipality

**6. UMGUNGUNDLOVU DISTRICT**

Impendle Local Municipality, Mkhambathini Local Municipality, Mpofana Local Municipality, Msunduzi Local Municipality, Richmond Local Municipality, uMngeni Local Municipality and uMshwathi Local Municipality

**7. UMKHANYAKUDE DISTRICT**

Big 5 Hlabisa Local Municipality, Jozini Local Municipality, Mtubatuba Local Municipality and uMhlabuyalingana Local Municipality

**8. UMZINYATHI DISTRICT**

Endumeni Local Municipality, Msinga Local Municipality, Nquthu Local Municipality and Umvoti Local Municipality

**9. UTHUKELA DISTRICT**

Alfred Duma Local Municipality, Inkosi Langalibalele Local Municipality and Okhahlamba Local Municipality

## 10. ZULULAND DISTRICT

Abaqulusi Local Municipality, eDumbe Local Municipality, Nongoma Local Municipality and uPhongolo Local Municipality

## 11. ETHEKWINI METROPOLITAN AREA

- 2.4 In terms of the Act, and in particular Sections 7(2)(c) and 7(2)(d) and the Regulations, the Board invites bids for one Traditional/Umtebelo Racecourse Operator licence for each District mentioned in clause 2.3 above.
- 2.5 The Board has a transformation strategy whereby the invitation to tender is in line with the strategy to create opportunities for Black Persons within the Horseracing industry in each District.
- 2.6 There are currently no active Traditional/Umtebelo Racecourse Operators in the Province. The Board has resolved to exercise its powers in terms of the Act and review the numbers by determining traditional racecourse operator licences for each of the districts of KZN listed below (and list) as defined areas, as more fully set out in paragraph [7.2] of this FRP
- 2.7 To allow for access to Transformation Fund

## 3. PURPOSE OF INVITATION

The purpose of this document is to provide all interested parties with the regulatory requirements and process to be followed for any persons wishing to tender under this RFP and to set out the principles applicable and the criteria that will be applicable in the consideration and awarding of the Traditional/Umtebelo Racecourse Operator licence.

The document also provides interested parties with guidelines on information required by the Board when evaluating applications.

## 4. LEGISLATIVE REQUIREMENTS

- 4.1 Section 7(1) of the Act provides that *“In addition to any other powers, functions and obligations that the Board has in terms of this Act, the Board’s powers and functions, in respect of gaming, are to –*
  - (a) invite and accept applications for any licence contemplated by this Act or accept applications without such invitation”*
  - *develop appreciation for and knowledge of horse racing amongst all communities, particularly those comprised of historically disadvantaged persons;*
  - *limit restrictive practices, the abuse of dominant market position and mergers in the betting industry, as contemplated in the Competition Act, 1998 (Act No. 89 of 1998), and the Board is, for the purposes of the said Act, a regulatory authority as defined in section 1 of that Act.*
- 4.2 Section 53(1)(a)(i) of the National Act enjoins the Board when considering an application for a licence to *“consider the commitments, if any, made by the applicant ... in relation to black economic empowerment ...”*

## 5 LICENSING OBJECTIVES

5.1 The Board intends, among others, to achieve the following objectives through the introduction of Traditional Horseracing licences in the Province:

- Part of the interventions to support the regularization of the THR and its structures
- To enable associations the right to apply to the authority to operate a racecourse operator and totalizator licence into the Act

## 6. TRADITIONAL/ UMTELEBELO RACECOURSE OPERATOR LICENCES

6.1 A person may not hold a race meeting unless that person holds a racecourse operator licence and such race meeting is held in one or more of the racecourses specified in a licence.

6.2 When considering an application for a Racecourse operator's licence the Board must consider the economic, social development and competition issues such as commitments,

6.3 A Racecourse operator's licence expires on the thirty-first day of March of every year but it may be renewed from year to year at the discretion of the Board as set out in the Act.

6.4 Such renewal is subject to substantial compliance with the conditions of the licence.

6.5 The corporate body must have as one of its objects the promotion and conducting of horse racing.

6.6 The licence may not be issued-

- (a) Unless the Board is satisfied that due provision will be made for the conduct of horseracing and betting on the said racecourse in a manner that will promote the objects of the Board,
- (b) Unless it is an Association

## 7. THE BOARD'S DETERMINATION

7.1 The Board has, in terms of section 7 (1) (a) determined the establishment of the following four (4) Traditional Horseracing licences in the following regions that have grouped Municipal Districts.

District Municipality	Local Municipality	Number of Licences
1. Amajuba	1. Dannhauser Local Municipality 2. Newcastle Local Municipality 3. Emadlangeni Local Municipality	2

<b>2. Harry Gwala</b>	<ol style="list-style-type: none"> <li>1. Dr Nkosazana Dlamini Zuma Local Municipality</li> <li>2. Greater Kokstad Local Municipality</li> <li>3. Umzimkhulu Local Municipality</li> <li>4. Ubuhlebezwe Local Municipality</li> </ol>	2
<b>3. ILembe</b>	<ol style="list-style-type: none"> <li>1. Ndwedwe Local Municipality</li> <li>2. Mandeni Local Municipality</li> <li>3. Maphumulo Local Municipality</li> <li>4. KwaDukuza Local Municipality</li> </ol>	1
<b>4. King Cetshwayo</b>	<ol style="list-style-type: none"> <li>1. Nkandla Local Municipality</li> <li>2. City of Umhlathuze</li> <li>3. Mthonjaneni Local Municipality</li> <li>4. Umfolozi Local Municipality</li> <li>5. Umlalazi Local Municipality</li> </ol>	1
<b>5. Ugu</b>	<ol style="list-style-type: none"> <li>1. Ray Nkonyeni Local Municipality</li> <li>2. uMuziwabantu Local Municipality</li> <li>3. Umdoni Local Municipality</li> <li>4. Umzumbe Local Municipality</li> </ol>	1
<b>6. uMgungundlovu</b>	<ol style="list-style-type: none"> <li>1. Impendle Local Municipality</li> <li>2. Msunduzi Local Municipality</li> <li>3. uMngeni Local municipality</li> <li>4. Mkhambathini local Munic</li> <li>5. Richmond Local Municipality</li> <li>6. Mpofana Local Municipality</li> <li>7. Umshwathi Local Municipality</li> </ol>	1
<b>7. uMkhanyakude</b>	<ol style="list-style-type: none"> <li>1. Mtubatuba Local Municipality</li> <li>2. Big 5 Hlabisa local Municipality</li> <li>3. Jozini Local Municipality</li> <li>4. Umhlabuyalingana Local Municipality</li> </ol>	1
<b>8. uMzinyathi</b>	<ol style="list-style-type: none"> <li>1. Endumeni Local Municipality</li> <li>2. Nquthu Local Municipality</li> <li>3. Umsinga Local Municipality</li> <li>4. Umvoti Local Municipality</li> </ol>	2
<b>9. uThukela</b>	<ol style="list-style-type: none"> <li>1. Alfred Duma Local Municipality</li> <li>2. Inkosi Langalibalele Local Municipality</li> <li>3. Okhahlamba Local Municipality</li> </ol>	2
<b>10. Zululand</b>	<ol style="list-style-type: none"> <li>1. Abaqulusi Local Municipality</li> <li>2. eDumbe Local Municipality</li> <li>3. Ulundi Local Municipality</li> </ol>	2



	4. Uphongolo Local Municipality 5. Nongoma Local Municipality	
11.eThekweni Metropolitan	1. eThekweni Metropolitan Municipality	1

- 7.3 The Board has also determined that each licence shall be restricted to the Defined Area for which it shall be granted: Provided that the Board may approve a relocation of licensed premises to any address, only if it is satisfied that a Racecourse Operator has traded from the defined area for a continuous period of not less than twelve (12) months

## 8. INVITATION TO TENDER

- 8.1 Invitation is hereby extended to interested parties to tender for the Traditional/ Umtebelo Racecourse Operator licences determined by the Board in terms of section 7 (1) (a) of the Act.

- 8.2 In order to achieve the objects of the Act and to ensure the financial viability of the Racecourse operator businesses to be created, the Board has resolved that the following shall be the criteria for adjudication of bids:-

8.2.1 that the disposal of each Traditional/ Umtebelo Racecourse Operator licence shall be restricted to Black People who belong to the horseracing and breeding structures only: Provided that persons who currently hold Racecourse Operator Licences issued in terms of the Act shall be allowed to form joint ventures with Black People where Black People own and control at least 70% financial interest in the business; and

8.2.2 that bids shall be scored in accordance with the criteria set out in the table set out in paragraph [9] below and the tenders will be awarded to bids with the highest scores per area.

- 8.4 A **Non-Compulsory Briefing Session** will be held on (date) , there will be two sessions: **First session 09:30 – 11:30 and Second session 14:00 – 16:00**. The session will be conducted virtually through the medium of Microsoft Teams as well as in-person at the Offices of the KZN Gaming and Betting Board: 01 George Macfarlane Drive, Wembley, Pietermaritzburg. Due to Covid-19 health protocols, in-person attendance will be limited per session and will be on a firstcome first served basis. **Registration for the briefing session is compulsory**. Kindly refer to the registration process contained on the website [www.kznqbb.org.za](http://www.kznqbb.org.za) in order to register for the briefing sessions. No late registrations will be accepted and no walk-ins will be allowed on the day.

**The bids should be submitted in the format appearing below. Bids should be sealed and should be delivered by no later than 12:00 noon on (date) to the following address:**

KwaZulu-Natal Gaming and Betting Board  
KZNGBB House, Redlands Estate  
1 George MacFarlane Lane

Wembley  
Pietermaritzburg  
KwaZulu-Natal  
3201

For Attention: The Chief Executive Officer

- 8.5 Bidders should take note that they are merely tendering for a right to make application for a Traditional /Umtebelo Racecourse Operator's Licence. Only the award of a Racecourse Operators' Licence, the payment of the required guarantees and the approval of the premises from which the Racecourse operator business is to be operated, will allow those persons whose bids are successful to actually operate the Racecourse operator business.
- 8.6 Essentially then, the process initiated by the Board consists of two separate and distinct phases. The first phase entails an open competitive tender process in which the highest qualifying bidders will win the right to enter the second phase. The second phase entails a formal application for a Racecourse operator's licence in terms of the Act by the winning bidders.
- 8.7 If the application for a Racecourse operator's licence is for any reason not successful the person who was the second highest bidder in the tender process will be invited to apply for the Licence. If for any reason, a winning bidder is unable to apply for a licence for a period of more twelve (12) months from the date of the award, the Traditional/Umtebelo Racecourse Operator licence opportunity so awarded lapses.
- 8.8 Racecourse operator businesses are regulated in terms of the Act, the Regulations, the National Act and other related legislation. Interested parties are strongly advised to familiarise themselves with all relevant legislation.
- 8.9 Prospective bidders are advised of the following:
1. That the Board has a Business Development Unit whose main responsibility is to provide assistance through the Transformation Fund and other means to B-BEE designated persons in order to enable them to become Black Industrialists as well as owners/licensees/registrants within the gambling industry value chain.
  2. That the Board may, on application by a licensee, approve the deferment of payment of licence /licence renewal fees
  3. That it is envisaged that successful bidders will qualify for a portion of betting taxes after obtaining a licence if the amendments to the KwaZulu-Natal Gaming and Betting Tax Act 09 of 2010 that are being processed currently are approved and become part of the law.

**9. THE BROAD ASSESSMENT CRITERIA TO BE APPLIED BY THE BOARD IN AWARDING LICENCES ARE AS FOLLOWS:**

## **9.1 Ownership/Membership/Shareholding by Black Persons (40):**

- 9.1.1 The Boards requirements are to prioritize ownership when issuing the licences;
- 9.1.2 Ownership preference is given to Black Owned Businesses
- 9.1.3 The Applicant shall have a minimum of 90% shareholding held by Black People of which a minimum of 90% must be held by local persons.
- 9.1.4 The applicant shall ensure that a minimum of 100% voting rights under the Management Control are held by Black People.

## **9.2 Skills development and Expertise (20)**

- 9.2.1 Skill and Experience in the Gambling Industry or business management, including evidence of having successfully executed or conducted a similar operation.
- 9.2.2 Demonstration of economic empowerment for Black People and people with disabilities including but not limited to equity or profit participation, skills transfers, etc
- 9.2.3 Staff composition indicating provision for race, gender, and employment of disabled persons and staffing levels in respect of employees

## **9.3. Shares held by local black people (20)**

- 9.3.1 The Board will consider the promotion of B-BBEE and in particular, local black people as matters of vital importance to the application.
- 9.3.2 The Board will also look at the level of participation by local participants; and
- 9.3.3 Demographic profile and number of local participants.

## **9.4. Corporate Social Investment (CSI) and Socio-Economic Development (CSD) (10)**

- 9.4.1 The focus of the bidder must be at the location where the proposed business would be based, and must indicate how it will contribute, participate and be involved in social responsibility or community development projects.
- 9.4.2 Licensees are expected to contribute a minimum of 1% of their gross profits to specific projects in line with government strategic framework objectives and priorities as may be identified by the Board from time to time.
- 9.4.3 The Bid must contain full details regarding the proposed socio-economic development initiatives and projects, including
  - (a) participation in the national responsible gambling programme,
  - (b) strategies for promotion of B-BBEE with regard to socio-economic development initiatives,
  - (c) a summary of key socio-economic benefits to residents of the Province of KwaZulu-Natal.

## **9.5 Financial Viability and Financing of the Business (10)**

- 9.5.1 The bid shall contain full details of the financing and funding of developments and operations of the bidder, including, but not limited to the following:
  - 9.5.1.1 Details of the Project Team;
  - 9.5.1.2 Related managerial experience;
  - 9.5.1.3 Summary of business plan;
  - 9.5.1.4 Financial and funding model or strategy, including a summary of the sourcing, level and nature of financing and the ability to meet financial obligations;
  - 9.5.1.5 Capital Adequacy – details amount of capital resources to invest in the province as a result of their operation;
  - 9.5.1.6 Details of the person(s) providing finance and funding, as well as the agreements, arrangements and structures in this regard

9.5.1.7 With regard to consortium members, such as an empowerment grouping, details of any arrangements by which voting rights differ from those for ordinary voting shares, preference share arrangements, voting pools and conversion rights attaching to shares;

## **9.6. New Entrants (10)**

9.6.1 This would be assessed at the level of participation by new entrants to the gambling industry; and the demographic profile and number of new entrants.

## **9.7. Bonus Points (10)**

9.7.1. Bonus points would be awarded to a bidder showing demonstrable commitment to uplifting persons from designated groups, such as black women; black youth; people with disabilities; etc.

## **10. TENDER FORMAT**

10.1 The bids should be submitted in the following format: -

10.2.1 Full name(s) of the person (s) tendering for the Traditional/Umtebelo Racecourse Operator licence opportunity.

10.2.2 Identity/registration numbers of the person(s) tendering for the Traditional/Umtebelo licence opportunity (if available).

10.2.3 Physical address(es) of the person(s) tendering for the Traditional/Umtebelo licence opportunity.

10.2.4 Postal address(es) of the person(s) tendering for the Traditional/Umtebelo licence opportunity.

10.2.5 Telephonic and other contact details of the person(s) tendering for the Traditional Horseracing opportunity.

10.2.6 Defined Area to which the tender relates.

10.2.7 Ownership details of the tendering entity(ies);

10.2.8 B-BBEE verification certificates of tendering joint venture entity(ies) or proof of exemption;

10.2.9 Affidavit confirming that the person tendering is not disqualified in terms of section 32 of the Act from holding a Racecourse operator's licence.

10.2.10 Proof that the person tendering has a viable plan to secure adequate financial resources to ensure the financial viability of the business to which the Traditional Horseracing licence relates including a business plan with a cost analysis.

10.2.11 Proof that the person tendering has sufficient experience in the management and operation of such business or access to the services of persons with such experience and plans to transfer skills to the person tendering; and

10.2.12 Skills development plan that talks to the proposed employment opportunities and training program.

10.3 Submission of the above information/documentation is mandatory. Tender documentation that does not follow the format prescribed above will be rejected. No correspondence will be entered into with persons who have submitted tenders prior to the announcement of the successful bids. Tenders will remain sealed prior to the closing date. It is therefore incumbent upon the persons who have submitted tenders, to ensure that the tender documentation is complete and correct.

## 11. TIMETABLE

11.1 The timetable below provides an indication of the critical path of the first phase. The Board reserves the right to change the timetable as and when necessary at its discretion without providing reasons:

No.	Process	Date
(a)	Publication of this RFP will not be later than	
(b)	Compulsory Briefing Session	
(c)	Closing date for Submission of Bids	
(d)	Evaluation of Bids	
(e)	Publication of Notice of Intention to Award	
(f)	Closing date for submission of Appeals	
(g)	Publication of Notice of Award	
(h)	Due date for submission of application for Racecourse operator's licences	12 months after final award

## 12. TERMS AND CONDITIONS

### 12.1 Disclaimer

12.1.1 Every effort has been made to ensure that the information contained in this invitation is correct but it is the obligation of interested parties to ensure that their bids are correct and that they comply with the provisions of the Act in all material respects.

12.1.2 In view of the above:

- Each interested party must make its own independent assessment and investigation of the issues required to be dealt with in its bid and should not rely solely on the accuracy of the information provided in this invitation; and
- Neither the Board, its employees nor its agents will be held liable for any act performed in good faith during the bid evaluation and adjudication process.

12.1.3 Any additional information provided to interested parties by the Board or any of its employees in connection with this invitation or the Racecourse operator's licence application process will also be subject to the terms of this invitation.

- 12.1.4 A shareholder in one District cannot be a shareholder in another District for purposes of this RFA to ensure equitable distribution of economic benefit in this regard
- 12.1.5 This RFA excludes shareholders in a thoroughbred horseracing
- 12.1.6 An individual, company, cooperative, association, etc can only submit a bid for one district **only** not for other Districts

## **12.2 Changes**

- 12.2.1 The Board may, at its discretion, by notice in the Provincial Gazette or in writing to applicants, supplement or update any of the contents or terms and conditions applicable to the invitation. It may also change procedures, timetables, requirements and any other aspect of or in connection with matters covered in the invitation.

## **12.3 No guarantee**

- 12.3.1 The Board does not guarantee that any applicant will be granted an opportunity to apply for a Licence.

## **12.4 No compensation**

- 12.4.1 The Board will not, under any circumstances, be liable to compensate a bidder or any other party for any expenses, losses and/or damages arising from whatsoever nature incurred or suffered by the bidder or any party in acting upon this invitation and/or otherwise participating in the Racecourse operator's licence application process.

## **12.5 Waiver of immaterial defects**

- 12.5.1 The Board may at its sole discretion, waive any immaterial defect or lack of compliance with any formality in any application or application procedure. The level of materiality and/or lack of compliance warranting such waiver shall be determined by the Board.

## **12.6 Wagering System**

- 12.6.1 All wagering and betting equipment must be supplied and maintained by licensed manufactures, suppliers and distributors in South Africa, unless a Bookmaker uses and maintain its own system.

## **12.7 B-BBEE**

- 12.7.1 As a public entity, the Board upholds and promotes the principles enshrined in the legislation pertaining to B-BBEE, and as such, will seek to ensure commitment to, adherence and compliance to the B-BBEE Act.
- 12.7.2 The KZNGBB in line with its objectives as contemplated under the Act and its Transformation Objectives will seek to ensure persons contemplated in the B-BBEE Act and Codes receive benefit. It will seek compliance with the B-BBEE Codes and transformation in terms of licence conditions.
- 12.7.3 The Boards B-BBEE Requirements are set out below:
- The bidder shall have a minimum of 70% shareholding held by Black People of which a minimum of 30% must be held by local black persons.
  - The bidder shall ensure that a minimum of 60% of the Management Control held by previously disadvantaged individuals.

## **12.8 Transformation Objectives**

- 12.8.1 The Licensee shall ensure that it operates in a manner which enhances the transformation objectives set out in this Invitation. The Licensee may not enter into commercial arrangements which undermine these objectives.
- 12.8.2 In the event that the licensee enters into a management agreement for the running of the racecourse operator business through an entity that does not reflect the minimum B-BBEE profile as set out in this Invitation to tender, the Board will not consider the bid, or may revoke a Racecourse operator's licence already granted, as the case may be.

## **12.9 False information and incomplete applications: -**

- 12.9.1 The Board reserves the right to refuse a proposal that:
- Contains false information; or
  - Is incomplete.

## **12.10. Commencement of operations**

- 12.10.1 Successful bidders shall commence business activities authorised by the Racecourse operator's licence within a period of twenty four (24) months from the date of issue of the Licence failing which the Licence shall lapse.

## **12.11 License fees and guarantee for gambling debts and taxes**

- 12.11.1 A Racecourse operator's licence will be issued upon payment of the prescribed Licence fees and provision of a suitable guarantee for gambling debts and taxes.

## **12.12 Evaluation criteria think about this**

- 12.12.1 Traditional/Umtelebelo licence opportunities will be allocated to the highest tenderers and in terms of the assessment criteria.
- 12.12.2 In the event of an equality of points or scores, the Board will use its discretion and award a Traditional/Umtelebelo licence opportunity to a bidder whose bid, in the opinion of the Board, best achieves the objects of the Act.

## **13. ENQUIRIES**

- 13.1 All enquiries regarding this tender process must be directed to -

Ms Zanele Zwane / Mr Don Ngubane  
Tel: 033 345 2714  
Email: [zwanez@kznqbb.org.za](mailto:zwanez@kznqbb.org.za)

## **14. EVALUATION CRITERIA**

### **14.1 General Suitability Criteria – requirements for association**

14.1.1 The following criteria will be applicable during the evaluations of bids upon which the Board shall base its deliberations and selection, as required in terms of the Act:

14.1.1.1 Applicant registration details in respect of legal form, address and owner(s) Association

14.1.1.2 District description and other details (including site location and layout);

14.1.1.3 Public objection matters;

14.1.1.4 Corporate Governance matters;

14.1.1.5 Personal background

14.1.1.6 Any other matter related to the suitability of an applicant.

### **14.2 Empowerment, human resource strategy and community benefits**

14.2.1 Demonstration of economic empowerment for Black People including but not limited to equity or profit participation, skills transfers, etc.

14.2.2 Contribution to Corporate Social Investment and the use to which these funds will be applied.

14.2.3 The creation of employment opportunities, split between direct employment creation and estimated indirect employment creation.

14.2.4 The numbers of staff members to be recruited from the Province, other Provinces and other countries.

14.2.5 Social impact: the maximisation of positive, and limitation of negative, social impact on the local community.

14.2.6 Equity participation by previously disadvantaged persons.

14.2.7 Efforts to promote small, medium and micro business opportunities

14.2.8 Any other economic or community benefits.

14.2.9 Projected staff composition indicating provision for race, gender, and employment of disabled persons and staffing levels in respect of employees.

### **14.3 Geographic spread**

14.3.1 Location of proposed bookmaker premises indicating the physical address and GPS Coordinates of the \ premises.

14.3.2 Potential socio-economic impact on the community of the proposed licence/premises (provide study).

## **15. APPLICATION AND LICENSING PROCESS (APPLICABLE ONLY TO SUCCESSFUL BIDDERS)**

### **15.1 PROCESS**

15.1.1 The licensing of racecourse operators will be dealt with through a process consisting of the following steps:



- 15.1.1.1 Application for a Racecourse operator's licence.
- 15.1.1.2 Publication of the application for a Racecourse operator's licence inviting comments or representations.
- 15.1.1.3 Public inspection and objection period;
- 15.1.1.4 Public Hearings;
- 15.1.1.5 Decision making on licence application and issuing of licences.

## **15.2 CLARIFICATION OF RFA**

- 15.2.1 Applicants may seek clarification of the requirements of this RFP, during office hours (08h00 to 16h30).
- 15.2.2 All requests for clarification must be in writing and may be sent by facsimile or email.
- 15.2.3 If requests for clarification are raised which, in the opinion of the Board, are relevant to all other applicants, the Board will provide written clarification to all applicants.
- 15.2.4 Requests for clarification should be directed to:

The Chief Executive Officer  
KwaZulu-Natal Gaming and Betting Board  
KZNGBB House, Redlands Estate  
1 George McFarlane Lane  
Wembley  
Pietermaritzburg

The Chief Executive Officer  
KwaZulu-Natal Gaming and Betting Board  
Private Bag X9102  
Pietermaritzburg  
3200

Ms Zanele Zwane / Mr Don Ngubane  
Tel: 033 345 2714  
Email : [zwanez@kznqbb.org.za](mailto:zwanez@kznqbb.org.za)

The Chief Executive Officer  
KwaZulu-Natal Gaming and Betting Board  
18<sup>th</sup> Floor the Marine  
22 Dorothy Nyembe Street  
Durban

The Chief Executive Officer  
KwaZulu-Natal Gaming and Betting Board  
Private Bag X9102  
PIETERMARITZBURG  
3200

Email : [zwanez@kznqbb.org.za](mailto:zwanez@kznqbb.org.za)

## **15.3 LODGING OF APPLICATIONS (APPLICABLE ONLY TO SUCCESSFUL BIDDERS)**

- 15.3.1 Applicants must submit the following –
  - 15.3.1.1 One (1) original bound copy and one (1) loose leaf copy of the entire bid and attachments.
  - 15.3.1.2 Two (2) bound copies excluding confidential information (for public inspection).
  - 15.3.1.3 Three bound copies of the entire application and attachments.

15.3.2 An applicant may in the application concerned identify any document or information included in the application which in the opinion of the applicant is confidential or should for any reason not be disclosed to the public and show cause why the Board should determine that such document or information should not be open to public inspection.

15.3.3 The application must be in English, prepared in black and white, standard A4 format, and be lodged with:

The Chief Executive Officer  
KwaZulu-Natal Gaming and Betting Board  
KZNGBB House, Redlands Estate  
1 George McFarlane Lane  
Wembley,  
Pietermaritzburg

The Chief Executive Officer  
KwaZulu-Natal Gaming and Betting Board  
Private Bag X9102  
Pietermaritzburg  
3200

## **15.4 FEES**

15.4.1 **Application fees** as per schedule.

## **15.5 INVESTIGATION FEES**

### **15.5.1 General Principle**

15.5.1.1 In terms of section 73 of the Act any person who applies to the Board for a licence, for the amendment, substitution or rescission of a condition attached to a licence, for the transfer of a licence or for the removal of his or her business from the premises specified in the licence to other premises, must pay to the Board –

15.5.1.1.1 the application fee prescribed in Schedule 2; and

15.5.1.2 Should it be deemed necessary, the Board may require an investigation fee, before proceeding with the investigation of an applicant. In such cases the applicant may request the Board to provide a budget/breakdown of the anticipated additional costs to be incurred.

## **16 GENERAL TERMS AND CONDITIONS**

### **16.1 GENERAL DISCLAIMER**

16.1.1 This RFP supplies information on a wide range of matters, many of which depend on interpretation of law in its widest sense. The information given is not an exhaustive account of the statutory and licensing requirements and shall not be regarded as a complete or authoritative statement of relevant law. Each Bidder shall consult their own legal, tax, financial and other advisors on all relevant matters.

16.1.2 The Board, its employees and its agents accept no responsibility for the accuracy or otherwise of the information contained in this document, nor for any omission or opinion of law expressed herein, nor liability for any loss or damage whether resulting from negligence or otherwise, howsoever caused arising from the reliance of any person upon the statements or information contained in it.

16.1.3 It is the duty of the Bidders to establish, at their own expense, the legal and other requirements and implications of the National Act, National Regulations, the Act, the Regulations and this RFP.

16.1.4 The Board reserves the right to request new or additional information regarding the Bidder or other persons associated with their proposal or application.

## **16.2 RIGHT TO CANCEL THIS RFA**

16.2.1 The Board reserves the right to cancel or amend this RFP or restructure or cancel the process.

## **16.3 REJECTION**

16.3 The Board reserves the right to reject any or all proposals at its sole and absolute discretion and to waive any immaterial defect or lack of compliance with any formality in any proposal, application or process.

## **16.4 COST AND EXPENSES**

16.4.1 The Board or its agents will not be responsible for any costs or expenses incurred in the preparation of a bid or an application for a licence, whether an application is submitted or a licence issued.

## **16.5 POSSIBILITY OF CHANGES IN LEGISLATION**

16.5.1 Each Bidder shall be aware that the law, legislation, taxation, regulations and directives pertaining to gambling may change from time to time. The Board, its employees or agents do not take any responsibility for such changes.

## **16.6 NO GUARANTEE**

16.6.1 The Board does not guarantee that any applicant shall be granted a licence and this RFP shall not constitute an offer of any kind whatsoever to the Bidders or applicants.

## **16.7 RECTIFICATION**

16.7.1 It shall be the duty of each applicant to advise the Board forthwith in writing of any information contained in its proposal which the applicant subsequently establishes to be incorrect and to rectify such information. The Board reserves the right to deal with such rectified information, as it may deem fit.

## **16.8 REFUSAL, SUSPENSION OR REVOCATION OF LICENCE**

16.8.1 The Board may in terms of the law, refuse, suspend or revoke a licence if any information contained in a proposal is found to be false in any material respect or subject to any material omission, with the intention to mislead the Board, at the time the information was provided.

## **16.9 DISSEMINATION OF INFORMATION AND RETENTION OF MATERIAL**

16.9.1 The Board reserves the right to publicly disseminate any information of a non-confidential nature contained in any application or proposal. Any and all eligible applications including all related material shall become the property of the Board and shall not be returned.

## **16.10 NO BINDING AGREEMENT**

16.10.1 This RFP and the proposal or application from the successful applicant(s) shall not constitute a binding agreement and the selection of a successful bid does not mean that such bidder's proposal or application is necessarily totally acceptable in the form submitted. The Board reserves the right to decline to issue a licence to the successful applicant(s) should such applicant fail, neglect or refuse to conform with any further or alternate requirements or conditions stipulated by the Board, or should any of the information contained in the proposal or application of the successful bidder or applicant be invalid, or

incorrect. In such event the Board may, at its sole discretion, either invite the second highest bidder or refuse an application for a licence or invite further bids in respect of the Traditional Horseracing licence concerned.

## **16.11 APPEALS/REVIEWS**

16.11.1 Any person who is aggrieved by the decision of Board in not awarding or refusing to award a Traditional Horseracing licence opportunity has a right to lodge an appeal or review against the decision of the Board.

16.11.2 The appeal or review contemplated in this RFP must be lodged within fifteen (15) working days from the date of publication of a notice of final award by serving Notice of Appeal or Review with the Chief Executive Officer and the successful bidder in the Traditional Horseracing licence opportunity in relation to which the decision of the Board is sought to be appealed or reviewed. The Notice of Appeal or Review must, at a minimum, set out the following particulars:

16.11.2.1 The full names and contact particulars of appellant;

16.11.2.2 The Traditional Horseracing licence and the districts in relation to which the appeal or review is lodged.

16.11.2.3 The full names and contact particulars of the person to whom the Traditional Horseracing was awarded;

16.11.2.3 The grounds upon which the appeal or review is founded; and

16.11.2.4 The nature of the relief sought.

16.11.3 The appeal or review contemplated in this RFP shall be presided over by a five (5) member Special Review Panel, which shall be constituted as follows:

16.11.3.1 A practising Advocate holding the rank of a Senior Counsel, who shall be the Chairperson of the Special Review Panel and must be selected by the chairperson of the KwaZulu-Natal Legal Council;

16.11.3.2 A suitable person selected by the Head of Department: KwaZulu-Natal of Economic Development, Tourism and Environmental Affairs within this Department;

16.11.3.3 Three (3) additional members appointed by the Chairperson of this Special Review Panel, and must be constituted as follows:

16.11.3.3.1 One (1) man or woman who is a legal practitioner in terms of Chapter 3 of the Legal Practice Act, 2014 Act No. 28 of 2014);

16.11.3.3.2 One (1) man or woman who, in the opinion of the Chairperson of the Special Review Panel, has appropriate knowledge and experience business and commerce; and

16.11.3.3.3 One (1) man or woman who, in the opinion of the Chairperson of the Special Review Panel, has appropriate knowledge and experience in gambling regulation.

## **16.12 POWERS OF THE SPECIAL REVIEW PANEL**

16.12.1 The Special Review Panel:

16.12.1.1 Shall have power to preside over and decide appeals or reviews;

- 16.12.1.2 May declare that the Board failed to comply with any aspect of this RFP;
- 16.12.1.3 If it declares that the Board failed to comply with the RFP, may:
  - 16.12.1.3.1 Condone deviation which it considers immaterial.
  - 16.12.1.3.2 Set aside and refer the matter back to the Board for reconsideration.
  - 16.12.1.3.3 In exceptional circumstances, substitute the decision of the Board with its own decision.

### **16.13 TIMELINE WITHIN WHICH TO FINALISE APPEAL OR REVIEW AND CONDUCT OF PROCEEDINGS**

- 16.13.1 An appeal or review lodged in terms of this RFP must finalised within three (3) months from the date of constitution of the Special Review Panel.
- 16.13.2 The Chairperson of the Special Review Panel must, subject to clause 16.13.1, give directions on how the appeal or review proceedings shall be conducted.