****

**STATE INFORMATION TECHNOLOGY AGENCY (SOC) LTD**

Registration number 1999/001899/30

**REQUEST FOR BIDS**

|  |  |
| --- | --- |
| **RFB Ref. No:** | **RFB 0000000977** |
| **Description** | **Request For The Replacement Of The Backup Infrastructure In The Numerus And Beta Data Centres Including Maintenance And Support For A Period Of Three (3) Years** |
| **Virtual Vendor Briefing Session**  | **Non-Compulsory Vendor Briefing Session will be held as follows:****Date: 10 September 2021****Time: 10:00 am****VENUE: Kindly RSVP by 09 September 2021 @16:00PM for the link****NOTE: THE NON-COMPULSORY BRIEFING SESSION WILL BE DONE VIRTUALLY. KINDLY RSVP (****Muditambi.Gangazhe@sita.co.za****).** |
| **Closing Date for questions / queries** | **17 September 2021** |
| **RFB Closing Details** | **Date: 27 September 2021** |
| **RFB Validity Period** | **120 Days from the Closing Date** |

**PROSPECTIVE BIDDERS MUST REGISTER ON NATIONAL TREASURY’S CENTRAL SUPPLIER DATABASE PRIOR TO SUBMITTING BIDS.**

**Notes to the bidders:**

* Bidders should submit their bid responses strictly through gCommerce (best experienced through google Chrome) using the following link:  <https://ww1.gcommerce.gov.za/iss/login.aspx>
* You must ensure that you are registered on the CSD and that all your company details have been updated on the CSD.
* To obtain log in details please call 012 482 2373 or alternatively send an email to **(mbongenin@intenda.za.com**) with the company MAAA number.
* If you encounter any system related challenges please call 012 482 2373. **The help desk only operates from Monday to Friday between 08h00 am to 16h00 pm (closed on Public Holidays**)
* gCommerce training will be conducted on Microsoft Teams every Wednesday 9h00-11h00 (except public holidays) [Click here to join the meeting](https://teams.microsoft.com/l/meetup-join/19%3Ameeting_ZDc1YjYzOWItODE4YS00ZDA2LWJjN2UtYzNiNTQ3MDQxYjdj%40thread.v2/0?context=%7b%22Tid%22%3a%226baca408-67d5-40da-b805-af2484bd0dbd%22%2c%22Oid%22%3a%2241a2db00-82e9-469c-8783-23cfffe1c02a%22%7d)
* Should you need additional training, please send an email to warrens@intenda.za.com
* Please allocate sufficient time to complete your submission as queries may take up to 3 business days to resolve.
* Ensure that you print your submission report and click on “ **SUBMIT REQUEST**” on step 7 before the closing date and time. Bid will not be considered if not submitted before closing time.
* Please note that there is a possibility of unexpected downtime and this can be unique to a specific bidder. Please call the helpdesk to be assisted with such issues.

**HAND DELIVERED OR EMAILED DOCUMENTS WILL NOT BE ACCEPTED.**

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# SECTION 1

# SBD 1

**PART A: INVITATION TO BID**

|  |
| --- |
| **SUPPLIER INFORMATION** |
| NAME OF BIDDER |  |
| POSTAL ADDRESS |  |
| STREET ADDRESS |  |
| TELEPHONE NUMBER | CODE |  | NUMBER |  |
| CELLPHONE NUMBER |  |
| FACSIMILE NUMBER | CODE |  | NUMBER |  |
| E-MAIL ADDRESS |  |
| COMPANY REGISTRATION NUMBER |  |
| DATE OF REGISTRATION |  |
| VAT REGISTRATION NUMBER |  |
|  |  |
|  | TCS PIN: |  | **OR** | CSD No: |  |
| B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE[TICK APPLICABLE BOX] | [ ]  Yes [ ]  No | B-BBEE STATUS LEVEL SWORN AFFIDAVIT  | [ ]  Yes  [ ]  No |
| IF YES, WHO WAS THE CERTIFICATE ISSUED BY?  |  |
| AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) AND NAME THE APPLICABLE IN THE TICK BOX | [ ]  | AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) |
| [ ]  | A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS) |
| [ ]  | A REGISTERED AUDITOR |
| NAME: |
| ***[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/SWORN AFFIDAVIT(FOR EMEs& QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]*** |
| ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED? | [ ] Yes [ ] No **[IF YES ENCLOSE PROOF AS SCHEDULE 1B]** | ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED? | [ ] Yes [ ] No[IF YES ANSWER PART B:3 BELOW ] |
| SIGNATURE OF BIDDER | ……………………………… | DATE |  |
| CAPACITY UNDER WHICH THIS BID IS SIGNED (Attach proof of authority to sign this bid; e.g. resolution of directors, etc. as Schedule 1C) |  |
| TOTAL NUMBER OF ITEMS OFFERED |  | TOTAL BID PRICE (ALL INCLUSIVE) |  |

PART B: TERMS AND CONDITIONS FOR BIDDING

|  |
| --- |
| 1. **BID SUBMISSION:**
 |
| * 1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
	2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE**
	3. **BIDDERS MUST REGISTER ON THE CENTRAL SUPPLIER DATABASE (CSD) TO UPLOAD MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS; AND BANKING INFORMATION FOR VERIFICATION PURPOSES). B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.**
	4. **WHERE A BIDDER IS NOT REGISTERED ON THE CSD, MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS MAY NOT BE SUBMITTED WITH THE BID DOCUMENTATION. B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.**
	5. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER LEGISLATION OR SPECIAL CONDITIONS OF CONTRACT.
 |
| 1. **TAX COMPLIANCE REQUIREMENTS:**
 |
| 1. BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2. BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER’S PROFILE AND TAX STATUS.
3. APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE [WWW.SARS.GOV.ZA](http://www.sars.gov.za).
4. BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID.
5. IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / PIN / CSD NUMBER.
6. WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
 |
| 1. **QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS**
 |
| * 1. IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? [ ]  YES [ ]  NO
	2. DOES THE BIDDER HAVE A BRANCH IN THE RSA? [ ]  YES [ ]  NO
	3. DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA? [ ]  YES [ ]  NO
	4. DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA? [ ]  YES [ ]  NO

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

**NB: FAILURE TO PROVIDE ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID**.

# SECTION 2

#  BIDDER’S DETAILS

**2.1 Bidding structure**

|  |
| --- |
| **Indicate the type of bidding structure by marking with an ‘X’:** |
| **Individual bidder** |  |
| **Joint Venture** |  |
| **Consortium** |  |
| **Subcontractors** |  |
| **Other** |  |
| **If the bid is submitted as a Consortium or Joint Venture or Sub Contracting Arrangement list the members of such Consortium or Joint Venture and Sub Contractors below:** |
| 1. |
| 2. |
| 3. |
| 4. |
| 5. |
| 6. |

**2.2 Bidder’s Information (includes bids submitted Individual or as a Consortium or Joint Venture)**

|  |  |
| --- | --- |
| Supplier size type (Large or QSE or EME) |  |
| Last financial year revenue (R) |  |
| Financial year end date |  |
| First time business with SITA (Y/N) |  |
| Number of existing running contract and total value |  |
| Total number of employee |  |

**2.3 Entity ownership**

| **Ownership category** | **% of ownership** |
| --- | --- |
| Black or historically disadvantage individual owned |  |
| Black women owned |  |
| Black youth owned |  |
| People living with disability  |  |
| Military veteran |  |
| Other ownership |  |
| **Total (100%)** |  |

#

# SECTION 3

# BID TERMS OF REFERENCE

# Definitions

* 1. The State Information Technology Agency SOC Ltd [hereinafter referred to as SITA] is a company with limited liability duly incorporated in accordance with the Companies Act of the Republic of South Africa, company registration number 1999/001899/30, and in terms of the State Information Technology Agency Act No. 88 of 1998 [Hereinafter referred to as “SITA Act”] as amended by SITA Amendment Act (Act 38 of 2002).
	2. SITA is mandated in accordance with section 7(g) of the Act to render Information and Communications Technology (ICT) services to government departments, and to act as the procurement agency of the Government.
	3. “**Acceptable Bid**” - any bid, which, in all respects, complies with the specifications and conditions of the RFB as set out in this document.
	4. “**B-BBEE**” – broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act.
	5. “**B-BBEE status level of contributor**” - the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act.
	6. “**Bid**” - a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods through price quotations, advertised bidding processes or proposals.
	7. “**Bidders**”- any enterprise, consortium or person, partnership, company, close corporation, firm or any other form of enterprise or person, legal or natural, which has been invited by SITA to submit a bid in response to this bid invitation.
	8. “**Broad-Based Black Economic Empowerment Act**” – the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003).
	9. “**Client**” - means Government departments, provincial and local administrations that participate in SITA SCM processes.
	10. “**Comparative Price**” - the price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration.
	11. “**Consortium**” - several entities joining forces as an umbrella entity to gain a strategic collaborative advantage by combining their expertise, capital, efforts, skills and knowledge for the purpose of executing this tender.
	12. “**Contractor Agent**”- any person mandated by a Prime Contractor or consortium/joint venture to do business for and on behalf of, or to represent in a business transaction, the Prime Contractor and thereby acquire rights for the Prime Contractor or consortium/joint venture against SITA or an organ of state and incur obligations binding the Prime Contractor or consortium/joint venture in favour of SITA or an organ of state.
	13. **“Co-operative”** – an autonomous association of persons united voluntarily to meet their common economic and social needs and aspirations through jointly owned and democratically controlled enterprise organised and operated on co-operative principles.
	14. **“Designated Group”** means
1. Black designated groups;
2. Black people;
3. Women;
4. People with disabilities; or
5. Small enterprises as defined in sections 1 of the National Small Enterprise Act, 1996 (Act No. 102 of 1996)
	1. **“Designated Sector”** – a sector, sub-sector or industry or product in designated in accordance with national development and industrial policies for local production and content, where only locally produced services or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content, taking into account economic and other relevant factors.
	2. **“Exempted Micro Enterprise (EME)”** – An entity with an annual turnover of R 10 (ten) million or less.
	3. “**Firm Price**” - the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition or abolition of customs or excise duty and any other duty, levy or tax which, in terms of a law or regulation is binding on the contractor and demonstrably has influence on the price of any supplies or the rendering cost of any service, for the execution of a contract.
	4. “**Goods**” – any work, equipment, machinery, tools, materials or anything of whatever nature to be rendered to SITA or SITA’s delegate by the Successful Bidder in terms of this bid.
	5. “**Imported Content**” – that portion of the tender price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs, such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African port of entry.
	6. “**Joint Venture**” - (Project) two or more businesses joining together under a contractual agreement to conduct a specific business enterprise with both parties sharing profit and losses. The venture is for one specific project only, rather than for a continuing business relationship as in a strategic alliance. It is about sharing risk with others and providing one or more missing and needed assets and competencies.
	7. “**Local content**” – that portion of the tender price which is not included in the imported content, provided that local manufacture does take place;
	8. **“Military Veterans”** – has the meaning assigned to it in section 1 of the Military Veterans Act, 2011 (Act No. 18 of 2011).
	9. “**Non-firm Price(s)**”- all price(s) other than “firm” price(s).
	10. “**Organ of State**” - a National Department or Provincial Administration as stipulated in Schedules 1 and 2 of the Public Service Act, Act 93 of 1994 (as amended).
	11. **“People with disabilities”** – people who have a long term or recurring physical or mental impairment which substantially limits their prospects of entry into, or advancement in, employment
	12. “**Person(s)**” - a natural and/or juristic person(s).
	13. **“Price”** – includes all applicable taxes less all unconditional discounts.
	14. “**Prime Contractor**” –any person (natural or juristic) who forwards an acceptable proposal in response to this RFB with the intention of being the main contractor should the proposal be awarded to him/her.
	15. **“Proof of B-BBEE status level contributor”** – means
6. the B-BBEE status level certificate issued by an authorised body or person;
7. a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or
8. any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act.
	1. “**Rand Value**” - the total estimated value of a contract in Rand, calculated at the time of invitations and includes all applicable taxes and excise duties.
	2. **“Rural areas”** – means
9. a sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area; or
10. an area including a large settlement which depends on migratory labour and remittances and governmental social grants for survival, and may have a traditional land tenure system.
	1. “**SMME**” – bears the same meaning assigned to this expression in the National Small Business Act, 1996 (Act No. 102 of 1996).
	2. “**Sub-contract**” – the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract.
	3. “**Subcontractor**” - any person (natural or juristic) who is subcontracted a portion of an existing contract by a Prime Contractor.
	4. “**Successful Bidder**” - the organisation or person with whom the order is placed and who is contracted to execute the work as detailed in the bid.
	5. **“Township”** – an urban living area that any time from late 19th century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994.
	6. **“Youth”** – persons between the ages of 14 and 35.

# Acronyms and abbreviations

* 1. The following acronyms and abbreviations are used in this proposal and must be similarly used in the proposal submitted in response and shall have the meaning ascribed thereto below:

| **Abbreviations/acronyms** | **Description** |
| --- | --- |
| B-BBEE | Broad-Based Black Economic Empowerment |
| BEE | Black Economic Empowerment |
| CPI | Consumer Price Index |
| ICT | Information Communication Technology |
| IS | Information Systems |
| ISO | International Standard Organisation |
| IT | Information Technology |
| ITC | Information Technology Committee |
| NIPP | National Industrial Participation Programme |
| OEM | Original Equipment Manufacturer |
| PPPFA | Preferential Procurement Policy Framework Act |
| RFB | Request for Bid |
|  |  |
| RSA | Republic of South Africa |
| SITA | State Information Technology Agency SOC Ltd |
| SLA | Service Level Agreement |
| SSA | State Security Agency  |
| URS | User Requirements Specification |

# General rules and instructions

3.1 News and press releases

3.1.1 Bidders or their agents shall not make any news releases concerning this RFB or the awarding of the same or any resulting agreement(s) without the consent of, and then only in co-ordination with, SITA SOC Ltd and its Client.

3.2 Precedence of documents

3.2.1 This RFB consists of a number of sections (see list). Where there is a contradiction in terms between the clauses, phrases, words, stipulations or terms and herein referred to generally as stipulations in this RFB and the stipulations in any other document attached hereto, or the RFB submitted hereto, the relevant stipulations in this RFB shall take precedence.

3.2.2 Where this RFB is silent on any matter, the relevant stipulations addressing such matter and which appear in the PPPFA shall take precedence. Bidders shall refrain from incorporating any additional stipulations in its proposal submitted in terms hereof other than in the form of a clearly marked recommendation that SITA may in its sole discretion elect to import or to ignore. Any such inclusion shall not be used for any purpose of interpretation unless it has been so imported or acknowledged by SITA.

3.2.3 It is acknowledged that all stipulations in the PPPFA are not equally applicable to all matters addressed in this RFB. It, however, remains the exclusive domain and election of SITA as to which of these stipulations are applicable and to what extent. Bidders are hereby acknowledging that the decision of SITA in this regard is final and binding. The onus to enquire and obtain clarity in this regard rests with the Bidder(s). The Bidder(s) shall take care to restrict its enquiries in this regard to the most reasonable interpretations required to ensure the necessary consensus.

3.3 **Preferential procurement reform**

3.3.1 SITA supports B-BBEE as an essential ingredient of its business. In accordance with government policy, SITA insists that the private sector demonstrates its commitment and track record to B-BBEE in the areas of ownership (shareholding), skills transfer, employment equity and procurement practices (SMME Development) etc.

3.3.2 SITA shall apply the principles of the Preferential Procurement Policy Framework Act, (Act No. 5 of 2000) to this proposal read together with the Preferential Regulations, 2011.

3.4 **National Industrial Participation Programme**

3.4.1 The Industrial Participation policy, which was endorsed by Cabinet on 30 April 1997, is applicable to contracts that have an imported content. The NIP is obligatory and therefore must be complied with. Bidders are required to sign and submit the Standard Bidding Document (SBD).

3.5 **Language**

3.5.1 Bids shall be submitted in English.

3.6 **Gender**

3.6.1 Any word implying any gender shall be interpreted to imply all other genders.

3.7 **Headings**

3.7.1 Headings are incorporated into this RFB document and submitted in response thereto, for ease of reference only and shall not form part thereof for any purpose of interpretation or for any other purpose.

3.8 **Occupational Injuries and Diseases Act 13 of 1993**

3.8.1 The Bidder warrants that all its employees (including the employees of any sub-contractor that may be appointed) are covered in terms of the Compensation for Occupational Injuries and Diseases Act 13 of 1993 and that the cover shall remain in force for the duration of the adjudication of this RFQ and/ or subsequent agreement. SITA reserves the right to request the Bidder to submit documentary proof of the Bidder’s registration and “good standing” with the Compensation Fund, or similar proof acceptable to SITA.

3.9 **Formal contract**

3.9.1 This RFB, all the appended documentation and the proposal in response thereto read together, form the basis for a formal contract to be negotiated and finalised between SITA and/or its clients and the enterprise(s) to whom SITA awards the RFB in whole or in part.

3.9.2 Any offer and/or acceptance entered verbally between SITA and any vendor, such offer shall not constitute a contract and thus not binding on the parties.

3.9.3 This RFB is subject to Government Procurement: General Contract Conditions – July 2011, Special Contract Conditions and any other contract conditions to be finalised during contracting.

3.9.4 The laws of the RSA shall govern this RFB and the bidders hereby accept that the courts of the Republic of South Africa shall have the jurisdiction.

# 3.10 Bid preparation

3.10.1 All additions to the proposal documents i.e. annexes, supporting documentation pamphlets, photographs, technical specifications and other support documentation covering the goods offered etc. shall be neatly bound as part of the schedule concerned.

# 3.11 Oral presentations

3.11.1 Bidders who submit Bids in response to this RFB may be required to give an oral presentation, which may include, but is not limited to, an equipment/service demonstration of their proposal to SITA. This provides an opportunity for the vendor to clarify or elaborate on the proposal. This is a fact finding and explanation session only and does not include negotiation. SITA shall schedule the time and location of these presentations. Oral presentations are an option of SITA and may or may not be conducted.

**3.12 Objection to brand specific requirements**

3.12.1 Any bidder who has reasons to believe that the RFB specification is based on a specific brand must inform SITA within five (5) days after the publication of the RFB.

**4. Instructions for submitting bids**

* 1. **Bid responses must be submitted as follows:**
* Bidders should submit their bid responses strictly through gCommerce (best experienced through google Chrome) using the following link:  <https://ww1.gcommerce.gov.za/iss/login.aspx>
* You must ensure that you are registered on the CSD and that all your company details have been updated on the CSD.
* To obtain log in details please call 012 482 2373 or alternatively send an email to **(mbongenin@intenda.za.com**) with the company MAAA number.
* If you encounter any system related challenges please call 012 482 2373. **The help desk only operates from Monday to Friday between 08h00 am to 16h00 pm (closed on Public Holidays**)
* gCommerce training will be conducted on Microsoft Teams every Wednesday 9h00-11h00 (except public holidays) [Click here to join the meeting](https://teams.microsoft.com/l/meetup-join/19%3Ameeting_ZDc1YjYzOWItODE4YS00ZDA2LWJjN2UtYzNiNTQ3MDQxYjdj%40thread.v2/0?context=%7b%22Tid%22%3a%226baca408-67d5-40da-b805-af2484bd0dbd%22%2c%22Oid%22%3a%2241a2db00-82e9-469c-8783-23cfffe1c02a%22%7d)
* Should you need additional training, please send an email to warrens@intenda.za.com
* Please allocate sufficient time to complete your submission as queries may take up to 3 business days to resolve.
* Ensure that you print your submission report and click on “SUBMIT **REQUEST**” on step 7 before the closing date and time. Bid will not be considered if not submitted before closing time.
* Please note that there is a possibility of unexpected downtime and this can be unique to a specific bidder. Please call the helpdesk to be assisted with such issues.

**HAND DELIVERED OR EMAILED DOCUMENTS WILL NOT BE ACCEPTED.**

* 1. **Late bids shall not be considered.**
	2. **No proposal shall be accepted by SITA if submitted in any manner other than as prescribed above.**

# RFB Returnables

5.1 Bidders shall submit response in accordance with the response format below. Failure to do so shall result in the rejection of the bidder’s RFB response.

5.2 **Schedule Index:**

**Schedule 1**: **1A** - Cover letter (Provide an overview of the operating structure and geographical locations of the firm at the national, regional, and local levels, brief profile of the bidder, summary of the bidder’s proposal and contact person and details for this RFB)

 **1B** – Proof of accreditation (as per SBD 1)

 **1C** – Proof of authority to sign this bid (as per SBD 1)

**Schedule 2**: Central Supplier Database (CSD) Registration Report

**Schedule 3**: Sections 1, 2 and 3 of this RFB Document

**Schedule 5**: Technical / Functionality response

**Schedule 6:** SBD 4 – Declaration of interest

**Schedule 7**: SBD 5 – National Industrial Participation form (for requests that have an impotent content of more than US$10 million) **<if applicable>.**

**Schedule 8**: SBD 6.1- Preferential Procurement Claim form and copy of the B-BBEE Verification Certificate(s) issued by an authorised body or person, or a sworn affidavit prescribed by the B-BBEE Codes of Good Practice.

**Schedule 9**: SBD 8 – Declaration of Bidders’ Past Supply Chain Practices

**Schedule 10**: SBD 9 – Certificate of independent bid termination

**Schedule 11**: Government Procurement General Conditions of Contract – July 2011

**Schedule 12**: Local Content Requirements

**Schedule 13**: Special Conditions of Contract

**Schedule 14**: Pricing / Costing **(to be submitted in a folder and marked clearly as follows: RFB number, RFB description and bidder’s name)**

5.3 **Bidder background information materials:**

5.3.1 Bidder Operating Organisation – Provide an overview of the operating structure and geographical locations of the firm at the national, regional, and local levels.

5.3.2 Corporate Financial Solvency - Provide solvency statement signed by a qualified independent Auditor, that the financial position of the company is sound and that the company will be able to mobilise resources to deliver the project.

5.3.3 Indicate the percentage of total annual revenue that the proposed service will contribute against the revenue generated for the most recent and the preceding two fiscal years.

# **6. Conditions of Bid**

6.1 **Bidders shall provide full and accurate answers to all (including mandatory) questions posed in this document, and, are required to explicitly indicate either "Comply/Accept (with a √)" or "Do not comply/Do not accept (with an X)" regarding compliance with the requirements. Where necessary, the bidder shall substantiate their response to a specific question.**

 **NOTE It is mandatory for bidders to complete or answer this part fully (6.2 to 6.24); otherwise their Bid shall be treated as incomplete and shall be disqualified.**

6.2

|  |  |  |
| --- | --- | --- |
| This RFB is subject to the General Conditions of Contract referred to in this document.  | **Accept** | **Do not accept** |
|  |  |

6.3

|  |  |  |
| --- | --- | --- |
| The preparation of response shall be made without obligation to acquire any of the items included in any bidder’s proposal or to select any proposal, or to discuss the reasons why such vendor’s or any other proposal was accepted or rejected. | **Accept** | **Do not accept** |
|  |  |

6.4

|  |  |  |
| --- | --- | --- |
| SITA SCM may request written clarification regarding any aspect of this proposal. The bidders must supply the requested information in writing within the specified time frames after the request has been made, otherwise the proposal shall be disqualified. | **Accept** | **Do not accept** |
|  |  |

6.5

|  |  |  |
| --- | --- | --- |
| In the case of Consortium, Joint Venture or Subcontractors, bidders are required to provide copies of signed agreements stipulating the work split and rand value. | **Accept** | **Do not accept** |
|  |  |

6.6

|  |  |  |
| --- | --- | --- |
| SITA reserves the right to; cancel or reject any proposal and not to award the proposal to the lowest bidder or award parts of the proposal to different bidders, or not to award the proposal at all. | **Accept** | **Do not accept** |
|  |  |

6.7

|  |  |  |
| --- | --- | --- |
| Where applicable, bidders who are distributors, resellers and installers of network equipment are required to submit back-to-back agreements and service level agreements with their principals. | **Accept** | **Do not accept** |
|  |  |

6.8

|  |  |  |
| --- | --- | --- |
| By submitting a proposal in response to this RFB, the bidders accept the evaluation criteria as it stands. | **Accept** | **Do not accept** |
|  |  |

6.9

|  |  |  |
| --- | --- | --- |
| Where applicable, SITA reserves the right to conduct benchmarks on product/services offered during and after the evaluation. | **Accept** | **Do not accept** |
|  |  |

6.10

|  |  |  |
| --- | --- | --- |
| SITA reserves the right to conduct a pre‑award’s survey during the source selection process to evaluate contractors' capabilities to meet the requirements specified in the RFB and supporting documents. | **Accept** | **Do not accept** |
|  |  |

6.11

|  |  |  |
| --- | --- | --- |
| Where the RFB calls for commercially available solutions, bidders who offer to provide future based solutions will be disqualified. | **Accept** | **Do not accept** |
|  |  |

6.12

|  |  |  |
| --- | --- | --- |
| Should the bidder withdraw the proposal before the proposal validity period expires, SITA reserves the right to recover any additional expense incurred by SITA having to accept any less favourable proposal or the additional expenditure incurred by SITA in the preparation of a new RFB and by the subsequent acceptance of any less favourable proposal. | **Accept** | **Do not accept** |
|  |  |

6.13

|  |  |  |
| --- | --- | --- |
| Should the parties at any time before and/or after the award of the proposal and prior to, and/or after conclusion of the contract fail to agree on any significant product price or service price adjustments, change in technical specification, change in services, etc. SITA shall be entitled within 14 (fourteen) days of such failure to agree, to recall the letter of award and cancel the proposal by giving the bidder not less than 90 (ninety) days written notice of such cancellation, in which event all fees on which the parties failed to agree increases or decreases shall, for the duration of such notice period, remain fixed on those fee/price applicable prior to the negotiations.Such cancellation shall mean that SITA reserves the right to award the same proposal to next best bidders as it deems fit. | **Accept** | **Do not accept** |
|  |  |

6.14

|  |  |  |
| --- | --- | --- |
| In the case of a consortium or JV, each of the authorised enterprise’s members and/or partners of the different enterprises must co-sign this document. | **Accept** | **Do not accept** |
|  |  |

6.15

|  |  |  |
| --- | --- | --- |
| Any amendment or change of any nature made to this document shall only be of force and effect if it is in writing, signed by SITA signatory and added to this document as an addendum. | **Accept** | **Do not accept** |
|  |  |

6.16

|  |  |  |
| --- | --- | --- |
| Failure or neglect by either party to (at any time) enforce any of the provisions of this proposal shall not, in any manner, be construed to be a waiver of any of that party’s right in that regard and in terms of this proposal. Such failure or neglect shall not, in any manner, affect the continued, unaltered validity of this proposal, or prejudice the right of that party to institute subsequent action. | **Accept** | **Do not accept** |
|  |  |

6.17

|  |  |  |
| --- | --- | --- |
| **Bidders who make use of subcontractors.** The proposal shall however be awarded to the vendor as a primary contractor who shall be responsible for the management of the awarded proposal. No separate contract shall be entered into between SITA and any such subcontractors. Copies of the signed agreements between the relevant parties must be attached to the proposal responses. | **Accept** | **Do not accept** |
|  |  |

6.18

|  |  |  |
| --- | --- | --- |
| All services supplied in accordance with this proposal must be certified to all legal requirements as per the South African law. | **Accept** | **Do not accept** |
|  |  |

6.19

|  |  |  |
| --- | --- | --- |
| No interest shall be payable on accounts due to the successful vendor in an event of a dispute arising on any stipulation in the contract. | **Accept** | **Do not accept** |
|  |  |

6.20

|  |  |  |
| --- | --- | --- |
| The bidders’ response to this RFB, or parts of the response, shall be included as a whole or by reference in the final contract. | **Accept** | **Do not accept** |
|  |  |

6.21

|  |  |  |
| --- | --- | --- |
| SITA has discretion to extend the validity period should the evaluation of this RFB not be completed within the stipulated validity period. | **Accept** | **Do not accept** |
|  |  |

6.22

|  |  |  |
| --- | --- | --- |
| Upon receipt of the request to extend the validity period of the RFB, the bidder must respond within the required time frames and in writing on whether or not he agrees to hold his original RFB response valid under the same terms and conditions for a further period. | **Accept** | **Do not accept** |
|  |  |

6.23

|  |  |  |
| --- | --- | --- |
| Should the bidder change any wording or phrase in this document, the RFB shall be evaluated as though no change has been effected and the original wording or phrasing shall be used. | **Accept** | **Do not accept** |
|  |  |

6.24

|  |  |  |
| --- | --- | --- |
| The onus is on the bidder to continuously check the SITA website for any communication and changes on the RFQ document. SITA will not be held responsible for any failure by the bidder to check updates on the RFBs on advert. | **Accept** | **Do not accept** |
|  |  |

**SECTION 4**

# Standard Bid Documents (SBDs)

 **Declaration of Interest SBD 4**

1.1 Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her positionin relation to the evaluating/adjudicating authority where:

1.1.1 the bidder is employed by the state; and/or

1.1.2 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.

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

1.2.1 Full name of bidder or his or her representative: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1.2.2 Identity number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* + 1. Position occupied in the company (director, trustee, shareholder)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
		2. Company registration number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
		3. Tax reference number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
		4. VAT registration number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
			1. The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

“State” means:

1. any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
2. any municipality or municipal entity;
3. provincial legislature;
4. national Assembly or the national Council of provinces; or
5. Parliament.

1.2.6.2 Any legal person, including persons employed by the state[[1]](#footnote-1), or persons having a kinship with persons employed by the State, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting Bid, or part thereof, be awarded to persons employed by the State, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her positionin relation to the evaluating/adjudicating authority where:

1.2.6.2.1 the bidder is employed by the state; and/or

1.2.6.2.2 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.**

* 1. Full name of the bidder or his or her representative: ………………………………………………………….
	2. Identity number: ………………………………………………………………………………………………….............
	3. Position occupied in the company (director, trustee, shareholder²): …………………………………
	4. Company registration number: ………………………………………………………………………..…….
	5. Tax Reference Number: ………………………………………………………………………………….………

2.6 VAT Registration Number: ………………………………………………………………………………....

2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

2.7 Are you or any person connected with the bidder **YES / NO**

presently employed by the state?

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of state institution at which you or the person connected to the bidder is employed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Position occupied in the state institution:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Any other particulars:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* + 1. If you are presently employed by the state, did you obtain **YES / NO**

the appropriate authority to undertake remunerative

work outside employment in the public sector?

* + - 1. If yes, did you attach proof of such authority to the Bid **YES / NO**

document?

**(NOTE Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.)**

* + - 1. If not, furnish reasons for non-submission of such proof: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* 1. Did you or your spouse, or any of the company’s directors / **YES / NO**

trustees / shareholders / members or their spouses conduct

business with the state in the previous twelve months?

2.8.1 If so, furnish other particulars:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* 1. Do you, or any person connected with the bidder, have **YES / NO**

any relationship (family, friend, other) with a person

employed by thestate and who may be involved with

the evaluation and or adjudication of this bid?

2.9.1 If so, furnish other particulars:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2.10 Are you, or any person connected with the bidder, **YES/NO**

aware of any relationship (family, friend, other) between

any other bidder and any person employed by the state

who may be involved with the evaluation and/or adjudication

of this Bid?

2.10.1 If so, furnish other particulars:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2.11 Do you or any of the directors / trustees / shareholders / members **YES/NO**

of the company have any interest in any other related companies

whether or not they are bidding for this contract?

2.11.1 If so, furnish other particulars:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. **Full details of directors / trustees / members / shareholders**

|  |  |  |  |
| --- | --- | --- | --- |
| **Full name** | **Identity number** | **Personal tax reference number** | **State employee number / Persal number** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

4. **Declaration**

I, the undersigned (name) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ certify that the information furnished in paragraphs 2 and 3 above is correct.

I accept that the State may reject the bid or act against me in terms of paragraph 23 of the GCC should this declaration prove to be false.

 **Signature Date**

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **Position Name of bidder**

 **National Industrial Participation Programme SBD 5**

**(Applicable to bids with imported / foreign content of more than 10M US Dollars)**

**This document must be signed and submitted together with your bid**

**1 Introduction**

1.1 The National Industrial Participation (NIP) Programme, which is applicable to all government procurement contracts that have an imported content, became effective on the 1 September 1996. The NIP policy and guidelines were fully endorsed by Cabinet on 30 April 1997. In terms of the Cabinet decision, all State and parastatal purchases / lease contracts (for goods, works and services) entered into after this date, are subject to the NIP requirements. NIP is obligatory and therefore must be complied with. The Industrial Participation Secretariat (IPS) of the Department of Trade and Industry (DTI) is charged with the responsibility of administering the programme.

**2 Pillars of the programme**

2.1 The NIP obligation is benchmarked on the imported content of the contract. Any contract having an imported content equal to or exceeding US$ 10 million or other currency equivalent to US$ 10 million shall have an NIP obligation. This threshold of US$ 10 million can be reached as follows:

2.1.1 Any single contract with imported content exceeding US$10 million; or

2.1.2 Multiple contracts for the same goods, works or services each with imported content exceeding US$3 million awarded to one seller over a 2 year period which in total exceeds US$10 million; or

2.1.3 A contract with a renewable option clause, where should the option be exercised the total value of the imported content shall exceed US$10 million; or

2.1.4 Multiple suppliers of the same goods, works or services under the same contract, where the value of the imported content of each allocation is equal to or exceeds US$ 3 million worth of goods, works or services to the same government institution, which in total over a two (2) year period exceeds US$10 million.

2.2 The NIP obligation applicable to suppliers in respect of sub-paragraphs 2.1.1 to 2.1.4 above shall amount to 30 % of the imported content whilst suppliers in respect of paragraph 2.1.4 shall incur 30% of the total NIP obligation on a *pro-rata* basis.

2.3 To satisfy the NIP obligation, the DTI would negotiate and conclude agreements such as investments, joint ventures, sub-contracting, licensee production, export promotion, sourcing arrangements and research and development (R&D) with partners or suppliers.

2.4 A period of seven years has been identified as the time frame within which to discharge the obligation.

**3 Requirements of The Department of Trade And Industry**

3.1 In order to ensure effective implementation of the programme, successful bidders (contractors) are required to, immediately after the award of a contract that is in excess of **R10 million** (ten million rand), submit details of such a contract to the DTI for reporting purposes.

3.2 The purpose for reporting details of contracts in excess of the amount of R10 million (ten million rand) is to cater for multiple contracts for the same goods, works or services; renewable contracts and multiple suppliers for the same goods, works or services under the same contract as provided for in paragraphs 2.1.1 to 2.1.4 above.

**4 BID submission and contract reporting requirements of bidders and successful bidders (contractors)**

4.1 Bidders are required to sign and submit this Standard Bidding Document (SBD 5) together with the Bid on the closing date and time.

4.2 In order to accommodate multiple contracts for the same goods, works or services; renewable contracts and multiple suppliers for the same goods, works or services under the same contract as indicated in sub-paragraphs 2.1.2 to 2.1.4.

4.2.1 above and to enable the DTI in determining the NIP obligation, successful bidders (contractors) are required, immediately after being officially notified about any successful bid with a value in excess of R10 million (ten million rand), to contact and furnish the DTI with the following information:

* + - 1. bid or contract number.
			2. description of the goods, works or services.
			3. date on which the contract was accepted.
			4. name, address and contact details of the government institution.
			5. value of the contract.
			6. imported content of the contract, if possible.

4.3 The information required in paragraph 4.2.1 above must be sent to the DTI, Private Bag X 84, Pretoria, 0001 for the attention of Mr Elias Malapane within five (5) working days after award of the contract. Mr Malapane may be contacted at telephone (012) 394 1401, facsimile (012) 394 2401 or e-mail at Elias@thedti.gov.za for further details about the programme.

**5 Process to satisfy the NIP obligation**

5.1 Once the successful bidder (contractor) has made contact with and furnished the DTI with the information required, the following steps shall be followed:

* + 1. the contractor and the DTI shall determine the NIP obligation;
		2. the contractor and the DTI shall sign the NIP obligation agreement;
		3. the contractor shall submit a performance guarantee to the DTI;
		4. the contractor shall submit a business concept for consideration and approval by the DTI;
		5. upon approval of the business concept by the DTI, the contractor shall submit detailed business plans outlining the business concepts;
		6. the contractor shall implement the business plans; and
		7. the contractor shall submit bi-annual progress reports on approved plans to the DTI.

5.2 The NIP obligation agreement is between the DTI and the successful bidder (contractor) and, therefore, does not involve the purchasing institution.

Bid number\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Closing date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of bidder\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Postal address\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Signature\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name (in print)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 **Preferential** **Procurement Claim form SBD 6.1**

**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2011**

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

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

1. **GENERAL CONDITIONS**
	1. The following preference point systems are applicable to all bids:
* the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
* the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).
	1. Points for this bid shall be awarded for:
1. Price; and
2. B-BBEE Status Level of Contributor.
	1. The maximum points for this bid are allocated as follows:

|  |  |  |
| --- | --- | --- |
|  | **POINTS** | **POINTS** |
| **PRICE** | **80** | **90** |
| **B-BBEE STATUS LEVEL OF CONTRIBUTOR** | **20** | **10** |
| **Total points for Price and B-BBEE must not exceed** | **100** | **100** |

* 1. Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.
	2. The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.
1. **DEFINITIONS**
2. **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
3. “**B-BBEE status level of contributor”** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
4. **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;
5. **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
6. **“EME”** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
7. **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
8. **“prices”** includes all applicable taxes less all unconditional discounts;
9. **“proof of B-BBEE status level of contributor”** means:
10. B-BBEE Status level certificate issued by an authorized body or person;
11. A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
12. Any other requirement prescribed in terms of the B-BBEE Act;
13. **“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
14. **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
15. **POINTS AWARDED FOR PRICE**
	1. **THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS**

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

 **80/20 or 90/10**

 **or**

 Where

 Ps = Points scored for price of bid under consideration

 Pt = Price of bid under consideration

 Pmin = Price of lowest acceptable bid

1. **POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR**
	1. In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

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

1. **BID DECLARATION**
	1. Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:
2. **B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1**
	1. B-BBEE Status Level of Contributor: = ………(maximum of 20 points)

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

1. **SUB-CONTRACTING**
	1. Will any portion of the contract be sub-contracted?

(***Tick applicable box***)

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

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

***(Tick applicable box***)

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

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

|  |  |  |
| --- | --- | --- |
| **Designated Group: An EME or QSE which is at last 51% owned by:** | **EME****√** | **QSE****√** |
| Black people |  |  |
| Black people who are youth |  |  |
| Black people who are women |  |  |
| Black people with disabilities |  |  |
| Black people living in rural or underdeveloped areas or townships |  |  |
| Cooperative owned by black people |  |  |
| Black people who are military veterans |  |  |
| **OR** |
| Any EME  |  |  |
| Any QSE |  |  |

1. **DECLARATION WITH REGARD TO COMPANY/FIRM**
	1. Name of company/firm:…………………………………………………………………………….
	2. VAT registration number:……………………………………….…………………………………
	3. Company registration number:…………….……………………….…………………………….
	4. TYPE OF COMPANY/ FIRM

 Partnership/Joint Venture / Consortium

 One person business/sole propriety

 Close corporation

 Company

 (Pty) Limited

[Tick applicable box]

* 1. DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

* 1. COMPANY CLASSIFICATION

 Manufacturer

 Supplier

 Professional service provider

 Other service providers, e.g. transporter, etc.

[*Tick applicable box*]

* 1. Total number of years the company/firm has been in business:……………………………
	2. I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:
1. The information furnished is true and correct;
2. The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
3. In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
4. If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
	1. disqualify the person from the bidding process;
	2. recover costs, losses or damages it has incurred or suffered as a result of that person’s conduct;
	3. cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
	4. recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
	5. forward the matter for criminal prosecution.

WITNESSES

1. ……………………………………..
2. …………………………………….

……………………………………….

SIGNATURE(S) OF BIDDERS(S)

DATE: …………………………………..

ADDRESS …………………………………..

 …………………………………..

 …………………………………..

 **Sworn Affidavit – B-BBEE Qualifying Small Enterprise**

I, the undersigned,

|  |  |
| --- | --- |
| **Full name & Surname** |  |
| **Identity number** |  |

Hereby declare under oath as follows:

1. The contents of this statement are to the best of my knowledge a true reflection of the facts.

2. I am a member / director / owner of the following enterprise and am duly authorised to act on its behalf:

|  |  |
| --- | --- |
| **Enterprise Name** |  |
| **Trading Name** |  |
| **Registration Number** |  |
| **Enterprise Address** |  |

3. I hereby declare under oath that:

 The enterprise is \_\_\_\_\_\_\_\_\_\_\_\_\_\_% black owned;

 The enterprise is \_\_\_\_\_\_\_\_\_\_\_\_\_\_% black woman owned;

 Based on the management accounts and other information available on the \_\_\_\_\_\_\_ financial year, the income did not exceed R50,000,000.00 (fifty million rands);

 Please confirm on the table below the B-BBEE level contributor, **by ticking the applicable box.**

 The entity is an Empowering Supplier in terms of clause 3.3(a) or (b) or (c) or (d) or as amended 3.3 (e) **(select one)** \_\_\_\_\_\_\_ of the dti Codes of Good Practice.

 Please confirm on the table below the B-BBEE level contributor, **by ticking the applicable box.**

|  |  |  |
| --- | --- | --- |
| 100% black owned | **Level One** (135% B-BBEE procurement recognition) |  |
| More than 51% black owned | **Level Two** (125% B-BBEE procurement recognition) |  |
| * 1. At least 25% of cost sales (excluding labour costs and depreciation) must be procurement from local producers or suppliers in South Africa; for the services industry include labour costs but capped at 15%,
 |  | * 1. Job creation – 50% of jobs created are for black people, provided that the number of black employees in the immediate prior verified B-BBEE measurement maintained.
 |  |
| * 1. At least 25% transformation of raw material / beneficiation which include local manufacturing, production and / or assembly, and / or packaging.
 |  | * 1. At least 12 days per annum of productivity deployed in assisting QSE and EME beneficiaries to increase their operational or financial capacity
 |  |
| (e) At least 85% of labour costs should be paid to South African employees by service entities. |  |  |  |

4. I know and understand the contents of this affidavit and I have no objection to take the

prescribed oath and consider the oath binding on my conscience and on the owners of the

enterprise which I represent in this matter.

6. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

 **Deponent Signature: ………………………**

 **Date: ……………………………**

 **…………………………………………..**

 **Commissioner of Oaths**

 **Signature & stamp**

 **Sworn Affidavit – B-BBEE Exempted Micro Enterprise**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| I, the undersigned,

|  |  |
| --- | --- |
| **Full name & Surname** |  |
| **Identity number** |  |

Hereby declare under oath as follows:1. The contents of this statement are to the best of my knowledge a true reflection of the facts.2. I am a member / director / owner of the following enterprise and am duly authorised to act on its behalf:

|  |  |
| --- | --- |
| **Enterprise Name** |  |
| **Trading Name** |  |
| **Registration Number** |  |
| **Enterprise Address** |  |

3. I hereby declare under oath that: The enterprise is \_\_\_\_\_\_\_\_\_\_\_\_\_\_% black owned; The enterprise is \_\_\_\_\_\_\_\_\_\_\_\_\_\_% black woman owned; Based on the management accounts and other information available on the \_\_\_\_\_\_\_ financial year, the income did not exceed R10,000,000.00 (ten million rands); Please confirm on the table below the B-BBEE level contributor, **by ticking the applicable box.**

|  |  |  |
| --- | --- | --- |
| 100% black owned | **Level One** (135% B-BBEE procurement recognition) |  |
| More than 51% black owned | **Level Two** (125% B-BBEE procurement recognition) |  |
| Less than 51% black owned | **Level Four** (100% B-BBEE procurement recognition) |  |

1. The entity is an empowering supplier in terms of **the dti** Codes of Good Practice.
2. I know and understand the contents of this affidavit and I have no objection to take the

prescribed oath and consider the oath binding on my conscience and on the owners of the enterprise which I represent in this matter.6. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner. **Deponent Signature: …………………………**   **Date: ………………………**

|  |
| --- |
|  |
|  |

 |
| **…………………………………….** |

 **Commissioner of Oaths**

 **Signature and stamp**

# Declaration of Bidder’s Past Supply Chain Management Practices SBD 8

1. This Standard Bidding Document must form part of all bids invited.
2. It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
3. The bid of any bidder may be disregarded if that bidder, or any of its directors have-
	1. abused the institution’s supply chain management system;
	2. committed fraud or any other improper conduct in relation to such system; or
	3. failed to perform on any previous contract.
4. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Question** | **Yes** | **No** |
| 4.1 | Is the bidder or any of its directors listed on the National Treasury’s Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the *audi alteram partem* rule was applied).**The Database of Restricted Suppliers now resides on the National Treasury’s website(**[www.treasury.gov.za](http://www.treasury.gov.za)**) and can be accessed by clicking on its link at the bottom of the home page.**  | Yes[ ]  | No[ ]  |
| 4.1.1 | If so, furnish particulars: |
| 4.2 | Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? **The Register for Tender Defaulters can be accessed on the National Treasury’s website (**[**www.treasury.gov.za**](http://www.treasury.gov.za)**) by clicking on its link at the bottom of the home page.**  | Yes[ ]  | No[ ]  |
| 4.2.1 | If so, furnish particulars: |
| 4.3 | Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years? | Yes[ ]  | No[ ]  |
| 4.3.1 | If so, furnish particulars: |
| 4.4 | Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract? | Yes[ ]  | No[ ]  |
| 4.4.1 | If so, furnish particulars: |

**SBD 8**

**CERTIFICATION**

**I, THE UNDERSIGNED (FULL NAME)…………………………………………………**

 **CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE AND CORRECT.**

 **I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.**

 **………………………………………... ………………………………….……..**

 **Signature Date**

 **………………………………………. …………………………………..……..**

 **Position Name of Bidder**

 **Certificate of Independent Bid Determination SBD 9**

1. This Standard Bidding Document (SBD) must form part of all Bids[[2]](#footnote-2) invited.

2. Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).[[3]](#footnote-3) Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.

3. Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorises accounting officers and accounting authorities to:

1. disregard the bid of any bidder if that bidder or any of its directors have abused the institution’s supply chain management system and/or committed fraud or any other improper conduct in relation to such system.
2. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.

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

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

**Certificate of Independent Bid Determination**

I, the undersigned, in submitting the accompanying bid:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**(Bid Number and Description)**

in response to the invitation for the bid made by:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**(Name of Institution)**

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 authorised 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 authorised 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 organisation, other than the bidder, whether or not affiliated with the bidder, who:

5.1 has been requested to submit a bid in response to this bid invitation;

5.2 could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and

5.3 provides the same goods and services as the bidder and/or is in the same line of business as the bidder.

1. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium[[4]](#footnote-4) will not be construed as collusive bidding.
2. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
	1. prices;
	2. geographical area where product or service will be rendered (market allocation)
	3. methods, factors or formulas used to calculate prices;
	4. the intention or decision to submit or not to submit, a bid;
	5. the submission of a bid which does not meet the specifications and conditions of the bid; or
	6. bidding with the intention not to win the Bid.
3. 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.
4. 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.
5. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to Bids and contracts, Bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and/or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and/or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

 **Signature Date**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **Position Name of bidder**

**SECTION 5**

# Government Procurement: General Conditions of Contract – July 2011

**NOTES**

The purpose of this document is to:

(i) Draw special attention to certain general conditions applicable to government Bids, contracts and orders; and

(ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

In this document words in the singular also mean in the plural and vice versa and words in the masculine also mean in the feminine and neuter.

 The GCC will form part of all bid documents and may not be amended.

 Special Conditions of Contract (SCC) relevant to a specific bid, should be compiled separately for every bid (if (applicable) and will supplement the GCC. Whenever there is a conflict, the provisions in the SCC shall prevail.

**TABLE OF CLAUSES**

1. Definitions

2. Application

3. General

4. Standards

5. Use of contract documents and information; inspection

6. Patent rights

7. Performance security

8. Inspections, tests and analysis

9. Packing

10. Delivery and documents

11. Insurance

12. Transportation

13. Incidental services

14. Spare parts

15. Warranty

16. Payment

17. Prices

18. Contract amendments

19. Assignment

20. Subcontracts

21. Delays in the supplier’s performance

22. Penalties

23. Termination for default

24. Dumping and countervailing duties

25. Force Majeure

26. Termination for insolvency

27. Settlement of disputes

28. Limitation of liability

29. Governing language

30. Applicable law

31. Notices

32. Taxes and duties

33. National Industrial Participation Programme (NIPP)

34. Prohibition of restrictive practices

**General conditions of contract**

**1. Definitions**

1 The following terms shall be interpreted as indicated:

1.1 “Closing time” means the date and hour specified in the bidding documents for the receipt of Bids.

1.2 “Contract” means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.

1.3 “Contract price” means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.

1.4 “Corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.

1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.

1.6 “Country of origin” means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.

1.7 “Day” means calendar day.

1.8 “Delivery” means delivery in compliance of the conditions of the contract or order.

1.9 “Delivery ex stock” means immediate delivery directly from stock actually on hand.

1.10 “Delivery into consignees store or to his site” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.

1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.

1.12 “Force majeure” means an event beyond the control of the supplier and not involving the supplier’s fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.

1.13 “Fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.

1.14 “GCC” means the General Conditions of Contract.

1.15 “Goods” means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.

1.16 “Imported content” means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.

1.17 “Local content” means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.

1.18 “Manufacture” means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.

1.19 “Order” means an official written order issued for the supply of goods or works or the rendering of a service.

1.20 “Project site,” where applicable, means the place indicated in bidding documents.

1.21 “Purchaser” means the organisation purchasing the goods.

1.22 “Republic” means the RSA.

1.23 “SCC” means the Special Conditions of Contract.

1.24 “Services” means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.

1.25 “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.

**2 Application**

2.1 These general conditions are applicable to all Bids, contracts and orders including Bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.

2.2 Where applicable, SCC are also laid down to cover specific supplies, services or works.

2.3 Where such SCC are in conflict with these general conditions, the special conditions shall apply.

**3 General**

3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.

3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za

**4 Standards**

4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.

1. **Use of contract documents and information; inspection**

5.1 The supplier shall not, without the purchaser’s prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.

5.2 The supplier shall not, without the purchaser’s prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.

5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier’s performance under the contract if so required by the purchaser.

5.4 The supplier shall permit the purchaser to inspect the supplier’s records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

**6 Patent rights**

6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.

1. **Performance security**

7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.

7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier’s failure to complete his obligations under the contract.

7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:

7.3.1 a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser’s country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or

7.3.2 a cashier’s or certified cheque

7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier’s performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.

**8. Inspections, tests and analyses**

8.1 All pre-bidding testing will be for the account of the bidder.

8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organisation acting on behalf of the Department.

8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.

8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.

8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.

8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.

8.7 Any contract supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.

8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

**9 Packing**

9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods’ final destination and the absence of heavy handling facilities at all points in transit.

9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

**10 Delivery and documents**

10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in SCC.

10.2 Documents to be submitted by the supplier are specified in SCC.

**11 Insurance**

11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the SCC.

**12 Transportation**

12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.

**13 Incidental services**

13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:

13.1.1 performance or supervision of on-site assembly and/or commissioning of the supplied goods;

13.1.2 furnishing of tools required for assembly and/or maintenance of the supplied goods;

13.1.3 furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

13.1.4 performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and

13.1.5 training of the purchaser’s personnel, at the supplier’s plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.

**14 Spare parts**

14.1 As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:

14.1.1 such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and

14.1.2 in the event of termination of production of the spare parts:

14.1.2.1 Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and

14.1.2.2 following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

**15 Warranty**

15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser’s specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.

15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.

15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.

15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.

15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier’s risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

**16 Payment**

16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.

16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of other obligations stipulated in the contract.

16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.

16.4 Payment will be made in rand unless otherwise stipulated in SCC.

**17 Prices**

17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorised in SCC or in the purchaser’s request for bid validity extension, as the case may be.

**18 Contract amendments**

18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.

**19 Assignment**

19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser’s prior written consent.

**20 Subcontracts**

20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

21 **Delays in the supplier’s performance**

21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.

21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier’s notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier’s time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.

21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier’s point of supply is not situated at or near the place where the supplies are required, or the supplier’s services are not readily available.

21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.

21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without cancelling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier’s expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

**22 Penalties**

22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

**23 Termination for default**

23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:

23.1.1 if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;

23.1.2 if the Supplier fails to perform any other obligation(s) under the contract; or

23.1.3 if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.

23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.

23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.

23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.

23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:

23.6.1 the name and address of the supplier and / or person restricted by the purchaser;

23.6.2 the date of commencement of the restriction

23.6.3 the period of restriction; and

23.6.4 the reasons for the restriction.

23.7 These details will be loaded in the National Treasury’s central database of suppliers or persons prohibited from doing business with the public sector.

23.8 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person’s name be endorsed on the Register for Tender Defaulters. When a person’s name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

**24 Anti-dumping and countervailing duties and rights**

24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him.

**25 *Force majeure***

25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.

25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

**26 Termination for insolvency**

26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.

**27 Settlement of disputes**

27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.

27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

27.5 Notwithstanding any reference to mediation and/or court proceedings herein,

27.5.1 the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and

27.5.2 the purchaser shall pay the supplier any monies due the supplier.

**28 Limitation of liability**

28.1 Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6;

28.1.1 the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

28.1.2 the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

**29 Governing language**

29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

**30 Applicable law**

30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.

**31 Notices**

31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice

31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

**32 Taxes and duties**

32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser’s country.

32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.

32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the SARSs.

**33** **National Industrial Participation (NIP) Programme**

33.1 The NIP Programme administered by the DTI shall be applicable to all contracts that are subject to the NIP obligation.

**34 Prohibition of restrictive practices**

34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).

34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

34.3 If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.

 **The above General Conditions of Contract (GCC) are accepted by:**

|  |  |
| --- | --- |
| **Name:** |  |
| **Designation:** |  |
| **Bidder:** |  |
| **Signature:** |  |
| **Date:** |  |

1. [↑](#footnote-ref-1)
2. Includes price quotations, advertised competitive bids, limited bids and proposals. [↑](#footnote-ref-2)
3. Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete. [↑](#footnote-ref-3)
4. 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. [↑](#footnote-ref-4)