



employment & labour

Department:
Employment and Labour
REPUBLIC OF SOUTH AFRICA

TENDER NOTICE

ERRATUM FOR BID NUMBER: TCF 01 :2023/24

APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT PROBITY AUDITS ON ALL TENDERS/BIDS FOR A PERIOD OF THREE (3) YEARS

The aforementioned bid was advertised in the e-tenders publication portal and the Departmental website on the 09 June 2023. The closing date for this bid was 03 July 2023 at 11H00.

Compensation Fund would like to inform Potential Service providers that the closing date for the bid has been changed to the 14 July 2023 at 11H00. The **Updated Tender Documents** are obtainable from: Departmental Website: www.labour.gov.za, under **Tenders Enquiries: SCM.enquiries@labour.gov.za** and National Treasury E-Tenders portal.

NB:

- Kindly note that the responses of the clarity seeking questions raised at the non-compulsory briefing session held on the 19 June 2023 and SCM enquiries can be obtained from the e-tenders publication portal and the Departmental website.
- All Documents should be clearly marked: tender number, description, closing date and time and deposited in the tender box situated at ground floor, Compensation Fund (CF), 167 Thabo Sehume Street, Delta Heights, Pretoria, 0001



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Department
Employment and Labour
REPUBLIC OF SOUTH AFRICA

RESPONSES TO THE CLARITY SEEKING QUESTIONS

TENDER NUMBER: TCF 01: 2023/24

TENDER DESCRIPTION: APPOINTMENTS OF A SERVICE PROVIDER TO CONDUCT PROBITY AUDITS ON ALL TENDERS/BIDS FOR PERIOD OF THIRTY-SIX (36) MONTHS.

THE FOLLOWING QUESTIONS/ENQUIRIES WERE ASKED:

NO	QUESTIONS	RESPONSES
1.	Is this tender different or the same as the UIF tender issued early February this year?	No, this tender is specifically for Compensation Fund.
2.	Is the Probity Auditor expected to sit throughout the evaluation process (Live Audit)?	It will depend on the number of bids received. On the Live Probity Audit, the appointed Auditor will be expected to sit throughout the Bid Process, from Terms of reference/Specification until the Bid is awarded
3.	On the technical mandatory requirements, is it only one requirement needed to be registered with IRBA OR SAICA?	Paragraph 11, Phase 2, (a) page 10 of 17 requires states that IRBA <u>OR</u> SAICA is required for directors of service provider
4.	Under specific goals or preference point allocation, what does the scale of 40% and below mean for the promotion of Women owned and people with disability enterprises?	The content of specification goals has been changed and points are going to be apportioned according to ownership
5.	On technical scorecard, how many team members are needed and how the score will be allocated?	Page 13 of 17, Criteria #7, there is no specific number of team members, CF want to have resources made available anytime there is a Bid subjected to Probity Audit, focus is on the

		skills and qualifications as documented on the TOR, 5.2.6 Page 6 of 17
6.	On the pricing schedule, if the hours are exhausted within 6 (Six) months. Will there be any provision for extra hours?	It may happen that hours are exhausted and may be under/over-utilised, this is based on the CF Procurement Plan (Bids) that require Probity Audit at any given time. The determination will be made as and when situation arises and will be incorporated in the contract/SLA with the winning Bidder
7.	Under evaluation on functionality, how will the company experience be scored when the traceable references client letterhead should not be longer than 2 (Two) years?	You can go back to the previous employer and ask for reference. Page 5 of 17, Par. 5.1.1 read with Criteria 1 on page 10 of 17, the onus is on the Bidder to source as latest as 2 years references, this is due to ever changes on SCM Legislative Reforms
8.	How long should the document last if it is certified?	At least 3 (Three) Months
9.	Is the Associate Director also required to submit their references to support their experience?	This is captured on Criteria 2 & 3 on Page 11 of 17, requires that some reference where the Associate Director/Partner was in charge of such services (individually or on behalf of the company/bidder)
10.	Will the recommended service provider be part of drafting of Terms Of Reference and through -out the whole process (TOR/Specification and Briefing session, BEC)?	The Bidder will be expected to conduct Probity Audit (independently) throughout the whole bidding process, without assuming management responsibility (not drafting TOR but review against legislation/SCM Policy etc)
11.	On Company experience, how many traceable references client letterhead will be required?	At least 3 (Three) signed contactable and traceable references to be provided in clients' letterhead not older than 2 (Two) years. Paragraph 5.1.1. Page 5 of 17, read with Criteria 1 on Page 10 of 17 refers
12.	Will the DPSA rates be taken into consideration?	Paragraph 9, Pricing schedule specify that DPSA rates will be considered
13.	Should a Senior Manager either be a CIA or CA?	It should be as per request on the TOR. Criteria 4 on Page 11 of 17, read with Paragraph 5.2.3 on page 6 of 17
14.	How many copies are needed to be submitted for bid submission?	There should be one original of each (Technical and Pricing), four copies of each, which in total will be 10 (Ten) copies of documents in total. Refer to Paragraph 10 Page 8 of 17

15.	<p>We would like to enquire regarding paragraphs 5.2.1 and 5.2.2 that states that the Director or Partner and Associate Director must have worked as a Certified Chartered Accountant.</p> <p>We will appreciate if you can please let us know if it will be acceptable if the firms Director and Associate Director are Certified Fraud Examiners (CFE) and Certified Internal Auditors (CIA)?</p>	<p>The requirement is Chartered Accountant (CA) and Certified Internal Auditor (CIA)</p> <p>Unfortunately, no CFE are required</p>
16.	<p>Will a bidder be disqualified if the experience is less than 10 years.</p>	<p>Unfortunately, disqualification as per TOR Paragraph 5.1.1. Page 5 of 17, read with Criteria 1 on Page 10 of 17 refers</p>



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Department:
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REPUBLIC OF SOUTH AFRICA

REQUEST FOR BID

TCF 01: 2023/24

The Compensation Fund (CF) wishes to invite all interested Companies to submit bids for the appointment of a Service Provider to conduct Probity Audits on all tenders/bids for a period of 3 years.

ISSUE DATE:

21 June 2023

CLOSING DATE AND TIME

14 July 2023 at 11H00am

Enquiries may be directed to: SCM.Enquiries@LABOUR.gov.za

NB: The cut off time to receive enquiries is 72 hours before the closing date.

Appointment of a Service Provider to conduct Probity Audits on all tenders/bids for a period of 3 years.

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SBD1

**PART A
INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE COMPENSATION FUND(CF)					
BID NUMBER:	TCF 01 2023/24	CLOSING DATE:	14 July 2023	CLOSING TIME:	11:00 am
DESCRIPTION	Appointment of a Service Provider to conduct Probiy Audits on all tenders/bids for a period of 3 years.				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
167 Thabo Sehume Street					
The Compensation Fund, Delta Heights Building					
Pretoria, 0001					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON			CONTACT PERSON		
TELEPHONE NUMBER			TELEPHONE NUMBER		
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	Scm.enquiries@Labour.gov.za		E-MAIL ADDRESS	Scm.enquiries@Labour.gov.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION	TICK APPLICABLE BOX]		B-BBEE STATUS LEVEL SWORN	[TICK APPLICABLE BOX]	

Appointment of a Service Provider to conduct Probity Audits on all tenders/bids for a period of 3 years

CERTIFICATE	<input type="checkbox"/> Yes <input type="checkbox"/> No	AFFIDAVIT	<input type="checkbox"/> Yes <input type="checkbox"/> No
[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]			
1. ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	2. ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS			
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <input type="checkbox"/> YES <input type="checkbox"/> NO DOES THE ENTITY HAVE A BRANCH IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? <input type="checkbox"/> YES <input type="checkbox"/> NO IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.			

PART B
TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED-(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.
1.3. 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 SPECIAL CONDITIONS OF CONTRACT.
1.4. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT.
2. TAX COMPLIANCE REQUIREMENTS
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

(Proof of authority must be submitted e.g. company resolution)

DATE:

TERMS OF REFERENCE FOR PROBITY AUDIT SERVICES

**APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT PROBITY AUDITS ON ALL
TENDERS/BIDS FOR A PERIOD OF 3 YEARS**

DEPARTMENT OF EMPLOYMENT AND LABOUR - COMPENSATION FUND



TERMS OF REFERENCE FOR PROBITY AUDIT SERVICES

1. PURPOSE

1.1 The Fund seeks to appoint an experienced service provider to provide Probity Audit services in ensuring that the procurement processes are able to withstand public scrutiny and instill confidence that all potential suppliers are given fair and equitable treatment. The Probity Audit services to the Compensation Fund (The Fund) will be for a period of 3 years to address the issues that are related to procurement of goods and or services.

2. BACKGROUND

2.1 The Compensation Fund here under referred to as the Fund, is a Schedule 3A Public Entity of the Department of Labour. The Fund administers the Compensation for Occupational Injuries and Diseases Act (COIDA) no 130/1993 as amended by the COIDA 61/1997. The main objective of the Act is to provide compensation for disablement caused by occupational injuries or diseases and provide for matters connected therewith.

2.2 The Strategic goal of the Fund is to deliver faster and reliable COID service. It would therefore be imperative that the Fund provides effective and efficient administrative support to the core business of the Fund.

2.3 The Fund has received a disclaimer of opinion from the external auditors (Auditor General of South Africa (AGSA)) on the financial statements due to the significant matters described in the basis for disclaimer of opinion in signed audit reports.

2.4 The disclaimer of opinion is mainly amongst others due to the following issues outlined by AGSA:

- Effective and appropriate steps were not taken to prevent irregular expenditure, as required by section 51(1)(b)(ii) of the PFMA. As reported in the basis for disclaimer of opinion, the value as disclosed in the financial statements does not reflect the full extent of the irregular expenditure incurred.
- Most of the irregular expenditure disclosed in the financial statements was caused by non-compliance with various National Treasury procurement regulations and or requirements.

2.5 According to section 51(1)(a)(iii) of Public Finance Management Act (PFMA), "an Accounting Authority for public entity must ensure that public entity has and maintains appropriate procurement systems which is fair, equitable, transparent, competitive and cost-effective."

2.6 The Fund is committed to ensuring the integrity of the procurement decision-making processes.

2.7 In order to ensure the integrity of the supply chain procurement processes and to also provide assurance to the Accounting Authority, all Bids/Tenders procurement processes must be subjected to a Probity Audit.

3. SCOPE OF WORK AND DELIVERABLES

The appointed service provider will be expected to deliver the following:

3.1 Core Functions

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TERMS OF REFERENCE FOR PROBITY AUDIT SERVICES

The services are separated into two review aspects:

- **Live probity review:** Resources will walk through the procurement process with the Service Owner. Resources will attend meetings and provide reports after the meeting. The process will begin from specification until adjudication.
 - **Desktop probity review:** Resources will review finalised tenders by inspecting all relevant documents on each tender file. This process will also LAP work which is explained at paragraph 1. The desktop probity audit will involve interviewing BEC and BAC chairpersons and members.
- 3.1.1 The appointed service provider will be expected to audit the bidding process of all bids and enhancement of internal control by performing the following activities.

The appointed service provider will assess the process in relation to:

- The development of Bid Specification processes, including the composition of the specification meeting, minutes, other relevant documents and approval processes, amongst others;
- The Bid Evaluation processes, including the composition of the Committee, Evaluation meetings, minutes, other relevant documents and approval processes, amongst others;
- The Probity Audit Report must be attached to the documents to be presented to the Bid Adjudication Committee.
- The Bid Adjudication Committee shall not consider any tender or bid if the Probity Audit report is not attached and the non-compliance issues raised in the report have not been addressed.

Volume of work: The number of bids that are going to be subjected to probity audit review is going to be reviewed and communicated on a yearly basis.

3.2 Training and skills transfer

3.2.1 Consultants are expected to transfer skills to Internal Control sub-directorate in the Compensation Fund. This will be incorporated in the Skills Transfer Plan between the in-house Internal Control team and the consultants. The skills transfer team will be monitored per completion of a Bid/Tender process and providing a Probity Audit report.

3.3 Methodology

3.3.1 Project methodology to be employed in execution of this project and activities should be documented and includes, amongst other things, but not limited to the following:

- Objectives, scope, approach and tools.
- Procedures and analysis, and
- Reporting

TERMS OF REFERENCE FOR PROBITY AUDIT SERVICES

4. DELIVERABLES

All deliverables such as reports, plans and other artefacts should be delivered to Internal Control and the Chief Financial Officer. The project will result in the following deliverables which will be made available in all suitable electronic and printed format.

Phases	Activities	Deliverables	Timeframes
1. Understand Supply Chain functions	<ul style="list-style-type: none"> Obtain understanding of supply chain management functions and SOP's including applicable laws and regulations 	<ul style="list-style-type: none"> Design work plan to implement the function 	One month after the contract is signed understanding of supply chain management functions and SOP's including applicable laws and regulations
2. Project plan with the directorate tested each month	<ul style="list-style-type: none"> Discuss and agree on the plan with management 	<ul style="list-style-type: none"> Develop monthly project plans Discuss and agree on the plan with management 	<ul style="list-style-type: none"> Monthly project plans signed off by management acknowledging agreement

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TERMS OF REFERENCE FOR PROBITY AUDIT SERVICES

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">3. Ongoing implementation of the plan in order to ensure compliance with Supply Chain Management, Treasury Regulations as well as standard operating procedures</p>	<ul style="list-style-type: none"> • Review business cases and TORs of tenders • Assess the process in relation to the development of bid specification • Assess the process in relation to the bid evaluation • Assess the process in relation to the bid adjudication 	<ul style="list-style-type: none"> • Compile a report of reviews of business cases and TORs of tenders • Compile a report on issues identified / not in the development of tender specification • Compile a report on issues identified / not during the bid evaluation • Compile a report on issues identified / not during the bid adjudication 	<p>• Weekly</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">4. Skills transfer</p>	<ul style="list-style-type: none"> • Draft skills transfer plan • Implement the training plan 	<ul style="list-style-type: none"> • Approved skills transfer plan between management and the service provider • Acknowledgement of skills transfer by employees per planned roll out sessions • Report on skills transfer 	<p>Quarterly</p>

The CF shall not pay any unproductive or duplicated time spent by consultants on any assignment as a result of staff changes

5. REQUIRED EXPERIENCE AND SKILLS

5.1 The Service Provider (Bidder)

5.1.1 The service provider must have acquired a minimum of 10 years working experience in public sector Supply Chain Management (SCM) auditing, compliance of internal control system and compliance with PFMA and Treasury Regulations with the capability to deliver quality and professional services timeously (A list of 3 signed contactable and traceable references to be provided in clients' letterhead not older than 2 years).

5.2 The Service Provider Employees

5.2.1 The Director or Partner of the appointed service provider must have worked as a qualified Chartered Accountant (CA) for at least 10 years in Public Sector Supply Chain Management (SCM) auditing, compliance of internal control system and compliance with PFMA and

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TERMS OF REFERENCE FOR PROBITY AUDIT SERVICES

Treasury Regulations with the capability to deliver quality and professional services timeously (Detailed CV, copies of qualifications and proof of active SAICA or IRBA membership must be attached).

- 5.2.2 The Associate Director of the appointed service provider must have worked as a qualified Chartered Accountant (CA) for at least 8 years in Public Sector Supply Chain Management (SCM) auditing, compliance of internal control system and compliance with PFMA and Treasury Regulations with the capability to deliver quality and professional services timeously (Detailed CV, copies of qualifications and proof of active SAICA or IRBA membership must be attached).
- 5.2.3 The Senior Manager of the appointed service provider must have worked as a qualified Certified Internal Auditor (CIA) for at least 6 years in Public Sector Supply Chain Management (SCM) auditing, compliance of internal control system and compliance with PFMA and Treasury Regulations with the capability to deliver quality and professional services timeously (Detailed CV, copies of qualifications and proof of active membership as a CIA must be attached).
- 5.2.4 The Project Lead or Manager of the appointed service provider must have worked as a qualified Certified Internal Auditor (CIA) for at least 4 years in Public Sector Supply Chain Management (SCM) auditing, compliance of internal control system and compliance with PFMA and Treasury Regulations with the capability to deliver quality and professional services timeously (Detailed CV, copies of qualifications and proof of active membership as a CIA must be attached).
- 5.2.5 The Assistant Manager of the appointed service provider must have worked as a qualified Certified Internal Auditor (CIA) for at least 4 years in Public Sector Supply Chain Management (SCM) auditing, compliance of internal control system and compliance with PFMA and Treasury Regulations with the capability to deliver quality and professional services timeously (Detailed CV, copies of qualifications and proof of active membership as a CIA must be attached).
- 5.2.6 Other team members of the service provider must have individually acquired a Degree or equivalent NQF level 7 qualification in Accounting / Auditing / Supply Chain Management with at least 3 years' experience in Public Sector Supply Chain Management (SCM) auditing, compliance of Internal control system and compliance with PFMA and Treasury Regulations with the capability to deliver quality and professional services timeously (Detailed CV and copies of qualifications must be attached).
- 5.2.7 In the event that the resources used by the bidders during the bidding process to qualify for this tender are no longer available, equivalent or better resources with similar experience and qualifications must be put forward to perform the work.
- 5.2.8 Involvement and engagement of key stakeholders within the Fund through a number of consultative meetings and work sessions.

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TERMS OF REFERENCE FOR PROBITY AUDIT SERVICES

5.2.9 Performance shall be measured against the project plan and deliverables.

6. PROJECT DURATION

6.1 The project is expected to be conducted within three (3) years after signing of the contract.

7. PAYMENT OF SERVICES

7.1 The service provider must be paid for the service rendered as per the agreed project plan and the pricing proposal (per project plan and agreed upon milestones).

8. MANAGEMENT OF THE ASSIGNMENT

The service provider must furnish satisfactory evidence of its capability to provide professional and timely services. To meet this requirement, the service provider must:

- 8.1 Present a viable plan that aligns to the objectives of this Terms of Reference.
- 8.2 Provide proof team have expertise to perform that task.
- 8.3 Service provider must have to provide the assurance that the confidentiality of data will be secured all the time.
- 8.4 Record all work done for audit Supply Chain Management reviews and reports
- 8.5 The appointed service provider shall report to the Chief Financial Officer and the Internal Control Sub-Directorate.
- 8.6 Provide skills transfer to the Internal Control team.

9. PRICING SCHEDULE

The fee structure must be based on the following:

- The person(s) allocated to the task/report and his/her capacity;
- Estimated time spent on the task/report (billable hours);
- Hourly rate per person (as per DPSA hourly rates for Consultants) allocated to the task/report;
- The fee structure must be according to the following table;

Table 1

Resource Required	Activities	Hourly rate	Hours	Total Fee (Incl. VAT)
Director or Partner	Required resources for monitoring review, quality assurance and report on Supply Chain Management processes	X	X	X
Associate Director	Required resources for review, report and quality assurance of reports on Supply Chain Management processes	X	X	X

TERMS OF REFERENCE FOR PROBITY AUDIT SERVICES

Senior Manager	Required resources for review and report Supply Chain Management processes	X	X	X
Project Lead or Manager	Required resources for review and report Supply Chain Management processes	X	X	X
Assistant Manager	Required resources for observation and report of the Supply Management Processes and preparation the related reports	X	X	X
Other team members	Required resources for observation and report of the Supply Management Processes and preparation the related reports	X	X	X
Budgeted hours: Year 1 = 2 000 Year 2 = 2 000 Year 3 = 2 000				
Total tender price for a period of 3 years (including VAT)				R0

- The bid hourly rates must be quoted in South African currency and must include VAT.
- Bidders must provide a clear pricing schedule detailing the cost of providing the service (including disbursement charges).
- The total fee for the duration of the contract (including VAT) for all deliverables expected as per paragraph 3 and 4 of the Terms of Reference document must be added together to arrive at a total fee.
- The total tender price for the three (3) year contract including VAT of 15% must also be captured on the SBD 3.3 form.
- The service provider will be remunerated at the rates in line with the 'Guide on Hourly Fee Rates for Consultants doing work on behalf of DPSA guidelines' rate the above mentioned rates will therefore be the maximum acceptable rates and failure to comply herein will lead to automatic disqualification.

Note: Price including VAT, for the project as a whole shall not be exceeded.

10. BID SUBMISSION REQUIREMENTS

The bidder must submit a bid response documentation pack and it must be delivered at the correct physical address and within the stipulated date and time as specified in the "Invitation to Bid" cover page, and the bidders are expected to submit the following:

- One original in two separate batches (1) Technical (2) Price proposal
- One original, 4 exact copies of the original technical and price proposal
- No electronic version will be accepted.

11 BID EVALUATION

The bid evaluation process consists of several stages that are applicable according to the nature of the bid as defined in the table below.

TERMS OF REFERENCE FOR PROBITY AUDIT SERVICES

Stage	Description	Applicable for this bid
Phase 1	Administrative Compliance Requirements	Yes
Phase 2	Technical Mandatory Requirements	Yes
Phase 3	Evaluation on Functionality	Yes
Phase 4	Evaluation on Price and Preference or Specific Goals points	Yes

The bidder must qualify for each stage to be eligible to proceed to the next stage of the evaluation.

PHASE 1: ADMINISTRATIVE COMPLIANCE REQUIREMENTS

If the Bidder failed to comply with any of the Administrative Compliance Requirements, or if Compensation Fund is unable to verify whether the Administrative Compliance Requirements are met, then Compensation Fund reserves the right to –

- (a) Reject the bid and not evaluate it, or
- (b) Accept the bid for evaluation, on condition that the Bidder must submit within 7 working (seven) days any supplementary information to achieve full compliance, provided that the supplementary information is administrative and not substantive in nature.
- (c) All bids will be measured against the administrative pre-qualification requirements. Only bids that comply with the criteria mentioned below will be considered for further evaluation.
- (d) The Service providers must be registered with the Central Supplier Database
- (e) Provide Tax Compliance Status - Pin issued by SARS.
- (f) Valid COIDA Letter of Good Standing.
- (g) Fully completed and Signed Standard Bidding Documents (SBD forms)
- (h) SBD 6.1 form as a requirement in above paragraph (g) must be accompanied by proof or documentation required in terms of this tender to claim points for specific goals with the tender.
- (i) In the case of Joint Ventures or Consortiums, proof of contract between the respective service providers must be provided.
- (j) Requirements stipulated in d) to g) must be provided by both companies submitting bids as part of a consortium or joint venture.

NB: All bidders must note that failure to provide any of the above requirements within (7) calendar days after the notice from the Fund will lead to automatic disqualification of the service provider's bid proposal.

TERMS OF REFERENCE FOR PROBITY AUDIT SERVICES

PHASE 2: TECHNICAL MANDATORY REQUIREMENTS

Purpose: Technical Mandatory requirements are the absolute minimum requirements to fulfil the Business Objective;

INSTRUCTION AND EVALUATION CRITERIA

- The bidder must comply with all the requirements by providing substantiating evidence in the form of documentation, failing which will be regarded as "NOT COMPLY".
 - The bidder must provide a reference number (e.g. binder / folio, chapter, section, page) to locate the substantiating evidence in the bidder's response. During evaluation, COMPENSATION FUND reserves the right to treat substantiating evidence that cannot be located in the bidder's response as "NOT COMPLY".
- a) The directors of the service provider must be affiliated with the relevant professional body (Independent Regulatory Board for Auditors (IRBA) or SAICA, and in good standing.

Please note that failure to provide any of the technical mandatory documents/requirements will lead to automatic disqualification of the service provider's bid.

PHASE 3: EVALUATION ON FUNCTIONALITY

- b) Service provider will be required to submit a detailed project plan highlighting the phases of the project and detailed cost breakdown of the project.
- c) An evaluation panel will be established by the Fund, made up of members of the Bid Evaluation Committee. Bids will be evaluated strictly according to the bid evaluation criteria set out below.
- d) A minimum threshold of 65% for the technical elements must be scored; otherwise the bid will be regarded as non-responsive and be disqualified. Bids that do not meet or better the technical threshold score of 65% will not be evaluated further.
- e) In respect to evaluation matrix, bidders will be rated from 3 to 5. In order to ensure meaningful participation and effective comparison, bidders are requested to furnish detailed information in substantiation of compliance to the evaluation criteria set out below.

3= Good; 4=Very Good; 5=Excellent

Technical scorecard				
	Criteria	Sub criteria	Scoring Guide	Weight
1.	Company Experience	At least 10 Years' experience and traceable references client letterhead not older than 2 years in Supply Chain Management auditing and compliance of internal control system, and compliance	<ul style="list-style-type: none"> • 10 years = 3 • 11-12 years = 4 • 13 and above =5 	30%

TERMS OF REFERENCE FOR PROBITY AUDIT SERVICES

Technical scorecard				
	Criteria	Sub criteria	Scoring Guide	Weight
		with PFMA and Treasury Regulations.		
2	Director Partner	At least 10 Years' working experience as a qualified Chartered Accountant (CA) and traceable references client letterhead not older than 2 years in Supply Chain Management auditing and compliance of internal control system, and compliance with PFMA and Treasury Regulations.	<ul style="list-style-type: none"> • 10 years = 3 • 11-12 years = 4 • 13 and above = 5 	5%
3	Associate Director	At least 8 Years' working experience as a qualified Chartered Accountant (CA) and traceable references client letterhead not older than 2 years in Supply Chain Management auditing and compliance of internal control system, and compliance with PFMA and Treasury Regulations.	<ul style="list-style-type: none"> • 8 years = 3 • 9 -10 years = 4 • 10 and above = 5 	5%
4	Senior Manager	At least 6 Years' working experience as a Certified Internal Auditor (CIA) and traceable references client letterhead not older than 2 years in auditing Supply Chain Management compliance and internal control system, and compliance with PFMA and Treasury Regulations.	<ul style="list-style-type: none"> • 6 - years = 3 • 7 - 8 years = 4 • 9 and above = 5 	10%
5.	Project Lead (Manager)	At least 4 years working experience as a qualified Certified Internal Auditor (CIA) in auditing	<ul style="list-style-type: none"> • 4 years = 3 • 5 - 6 years = 4 • 7 and above = 5 	10%

TERMS OF REFERENCE FOR PROBITY AUDIT SERVICES

Technical scorecard				
	Criteria	Sub criteria	Scoring Guide	Weight
		Supply Chain Management, accounting, auditing and compliance of internal control system, and compliance with PFMA and Treasury Regulations.		
6.	Appropriateness and quality of proposed project plan and methodology in Supply Chain Management, accounting, auditing and compliance of internal control system, and compliance with PFMA and Treasury Regulations.	Project plan	<ul style="list-style-type: none"> • A comprehensive detailed project plan describing all activities in logical sequence with clear time frames commensurate with the terms of reference = 5 • Project plan describes all high level activities, supplemented with further sub – activities in logical sequence with clear time frames commensurate with the terms of reference = 4 • Project plan describes all high level activities in logical sequence with clear time frames commensurate with the terms of reference = 3 	20%

TERMS OF REFERENCE FOR PROBITY AUDIT SERVICES

Technical scorecard				
	Criteria	Sub criteria	Scoring Guide	Weight
7.	Team Members Experience excluding the project lead	Must have 3 years work experience in Supply Chain Management auditing and compliance of Internal control system, and compliance with PFMA and Treasury Regulations.	<ul style="list-style-type: none"> • 3 years = 3 • 4 - 5 years = 4 • 6 years and above = 5 	15%
8.	A Comprehensive skill transfer	Comprehensive detailed skills transfer plan submitted by the bidder	<ul style="list-style-type: none"> • Average skills transfer plan = 3 • Detailed skills transfer plan = 4 • Detailed and clearer skills transfer plan = 5 	5%
		Total technical score		100
		Minimum threshold for technical proposal		65

NB: All bidders with a score less than 65% out of 100% on technicality will not be considered for the next stage/phase.

PHASE 4: PREFERENCE POINTS SYSTEM (PRICE AND SPECIFIC GOALS).

Only Bidders that have met the 65% points threshold in Phase 3 (three) will be evaluated in Phase 4 (four) for Price and Preference. Price and Preference will be evaluated as follows:

In terms of regulation 6 of the Preferential Procurement Regulations pertaining to the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000), responsive bids will be adjudicated on the 80/20 Preference Point system in terms of which points are awarded to bidders on the basis of:

- A maximum of 20 points may be awarded to a bidder for the specific goals specified in this bid.
- The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- The bid must be awarded to the bidder scoring the highest points.

TERMS OF REFERENCE FOR PROBITY AUDIT SERVICES

I. Stage 1 – Price Evaluation (80 Points)

The following formula will be used to calculate the points for price:

Where

Criteria	Points
Price Evaluation $Ps = 80 \left(1 - \frac{Pt - P \text{ min}}{P \text{ min}} \right)$	80

Ps = Points scored for comparative price of bid under consideration

Pt = Comparative price of bid under consideration

Pmin = Comparative price of lowest acceptable bid

II. Stage 2 – Specific Goals or Preference Evaluation (20 Points)

(a) Specific Goals or Preference Points Allocation

Specific goals	Points out of 20 (80/20)	Required Proof	Ownership %	Points Claimed	Proof attached (Y/N)
Promotion of Women owned enterprises	8	(a) A certified copy of the founding documentation of the company with which the ownership is listed (b) Certified copy of identity document such as SA ID book. (c) Latest Central Supplier Database (CSD) report with women as owners/shareholders/directors of the company.			

TERMS OF REFERENCE FOR PROBITY AUDIT SERVICES

Promotion of enterprises owned by people with disability	1		<p>(a) A certified copy of the founding documentation of the company with which the ownership is listed</p> <p>(b) A signed letter from a duly authorised medical practitioner</p> <p>(c) Latest Central Supplier Database (CSD) report with people with disability as owners/shareholders/directors of the company.</p>			
Promotion of enterprises owned by youth	6		<p>(a) A certified copy of the founding documentation of the company with which the ownership is listed</p> <p>(b) Certified copy of identity document such as SA ID book</p> <p>(c) Latest Central Supplier Database (CSD) report with youth as owners/shareholders/directors of the company.</p>			
Promotion of local enterprises	5	<p>Within Gauteng Province = 5 points</p> <p>Outside Gauteng Province = 0 points</p>	<p>(a) certified copy of the founding documentation of the company with which the ownership is listed</p> <p>(b) Proof of residence under the name of the tenderer</p> <p>(c) Latest Central Supplier Database (CSD) report with supplier's address information</p>			
Maximum points	20					

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

TERMS OF REFERENCE FOR PROBITY AUDIT SERVICES

12. RULES OF BIDDING / SPECIAL CONDITIONS OF CONTRACT

- a) The bid validity period is 120 calendar days starting from the closing date of the bid advertisement and any bidder not responding to extension of validity will be disqualified.
- b) The Fund will enter into contracts with single company for the delivery of the work set out in these terms of reference.
- c) The shortlisted companies may be required to conduct a presentation to the CF at no cost to the Compensation Fund.
- d) Tax Compliance status pin must be submitted by all South African companies submitting bids as part of a consortium or joint venture.
- e) Foreign company providing proposals must become familiar with local conditions and laws, and take them into account in preparing their proposals
- f) Bids must be submitted in South African Rands, on a fixed price basis.
- g) The cost of preparing bids and of negotiating the contract will not be re-imbursed.
- h) The Fund is not bound to accept any of the bids submitted.
- i) The Fund reserves the right to withdraw or amend these terms of reference by notice in writing to all parties who have received the terms of reference.
- j) The Fund reserves the right to call interviews with short-listed bidders before final selection.
- k) The Fund reserves the right to negotiate price with the preferred bidder.
- l) Company may ask for clarification on these terms of reference up to close of business six (6) days before the deadline for the submission of bids. Any request for clarification must be submitted in writing by email and will be replied to in writing by email. SCM.enquiries@LABOUR.gov.za.
- m) The Fund reserves the right to return late bid submissions unopened.
- n) The Fund reserves the right not to evaluate bids that are not submitted in the format specified in these terms of reference. Failure to submit the bids in the specified format will invalidate your bid.
- o) A company may not contact the Fund or any member of the bid committees, on any matter pertaining to their bid from the time when bids are submitted to the time the consultant contract is awarded. Any effort by a bidder to influence bid evaluation, bid comparisons or bid award decisions in any matter, may result in rejection of the bid concerned.
- p) The deadline for submission of bids is 11h00 on 14 July 2023

TERMS OF REFERENCE FOR PROBITY AUDIT SERVICES

- q) The required service must commence one week after the official order has been placed and contract signed.
- r) No incomplete tenders, late tenders and tenders received telegraphically or per facsimile shall be accepted.
- s) The personnel of the civil company shall adhere to security regulations of the Fund. This entails issues like locking all valuables and computer equipment, remove of any computer equipment from the Department's premises.
- t) The Compensation Fund reserves the right to conduct supplier due diligence prior to final award or at any time during the contract period. This may include site visits and presentations.
- u) **Bids must be submitted by hand to:**
- The Compensation Fund
167 Thabo Sehume,
Delta Heights Building,
Pretoria CBD, 0001
- v) **Bids must be clearly marked:**
- I. Bid Number TCF 01.2023/24 type text here
 - II. Probity Audit Services
 - III. Compensation Fund. Supply Chain Management
 - IV. Attention: Acquisition Management

13. GENERAL CONDITIONS OF CONTRACT

The general conditions of contract as enclosed in the standard bidding documents apply.

SCM.Enquiries@LABOUR.gov.za

NB: The cut-off time to receive enquiries is 72 hours before the closing date and time.

14. BRIEFING SESSION

A Non - compulsory Briefing Session will be held at

The Compensation Fund
167 Thabo Sehume,
Delta Heights Building,
Pretoria CBD, 0001

AC

RS LEM

TERMS OF REFERENCE FOR PROBITY AUDIT SERVICES

The date and time for briefing session is as follows:

- Date – 19 June 2023
- Time – 11h00AM

NB: The cut-off time to receive enquiries is 72 hours before the closing date.

16. ENQUIRIES

SCM.Enquiries@LABOUR.gov.za

ME
LEEM

PRICING SCHEDULE
(Professional Services)

NAME OF BIDDER:	BID NO: TCF 01: 2023/24
CLOSING TIME 11:00	CLOSING DATE: 14 July 2023

OFFER TO BE VALID FOR 120 CALENDAR DAYS FROM THE CLOSING DATE OF BID.

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY ** (ALL APPLICABLE TAXES INCLUDED)
---------	-------------	---

1. The accompanying information must be used for the formulation of proposals.
2. Bidders are required to indicate a ceiling price based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project. R.....

3. PERSONS WHO WILL BE INVOLVED IN THE PROJECT AND RATES APPLICABLE (CERTIFIED INVOICES MUST BE RENDERED IN TERMS HEREOF)

4	PERSON AND POSITION DAILY RATE	HOURLY	RATE
.....		R.....	.....
.....		R.....	.....
.....		R.....	.....
.....		R.....	.....
.....		R.....	.....

5. PHASES ACCORDING TO WHICH THE PROJECT WILL BE COMPLETED, COST PER PHASE AND MAN-DAYS TO BE SPENT

.....	R.....	.....
days		
.....	R.....	.....
days		
.....	R.....	.....
days		
.....	R.....	.....
days		

5.1 Travel expenses (specify, for example rate/km and total km, class of airtravel, etc). Only actual costs are recoverable. Proof of the expenses incurred must accompany certified invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT

TOTAL: R.....

APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT PROBITY AUDITS ON ALL TENDERS/BIDS FOR A PERIOD OF 3 YEARS

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

5.2 Other expenses, for example accommodation (specify, eg. Three star hotel, bed and breakfast, telephone cost, reproduction cost, etc.). On basis of these particulars, certified invoices will be checked for correctness. Proof of the expenses must accompany invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT

TOTAL:R.....

6.Period required for commencement with project after acceptance of bid.....

7.Estimated man-days for completion of project

8.Are the rates quoted firm for the full period of contract? *YES/NO

9.If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index.

.....

.....

.....

.....

***[DELETE IF NOT APPLICABLE]**

Any enquiries regarding bidding procedures may be directed to the –

SCM.enquiries@labour.gov.za

SBD 4

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

2. Bidder's declaration

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise, employed by the state? **YES/NO**

2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	Identity Number	Name of State institution

2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES/NO**

¹ the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

2.2.1 If so, furnish particulars:

.....
.....

**2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract?
YES/NO**

2.3.1 If so, furnish particulars:

.....
.....

3 DECLARATION

I, _____ the _____ undersigned,
(name)..... in
submitting the accompanying bid, do hereby make the following statements that
I certify to be true and complete in every respect:

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 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 consortium² will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 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.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 3.6 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

² 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.

APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT PROBITY AUDITS ON ALL TENDERS/BIDS FOR A PERIOD OF 3 YEARS.

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.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

..... Signature	..... Date
..... Position	..... Name of bidder

SBD 6.1

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

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

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

1. GENERAL CONDITIONS

- 1.1 The following preference point systems are applicable to invitations to tender:
- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
 - the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).
- 1.2 **To be completed by the organ of state**
(delete whichever is not applicable for this tender).
- a) The applicable preference point system for this tender is the 90/10 preference point system.
 - b) The applicable preference point system for this tender is the 80/20 preference point system.
 - c) Either the 90/10 or 80/20 preference point system will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.
- 1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:
- (a) Price; and
 - (b) Specific Goals.
- 1.4 **To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

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

3.2. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

3.2.1. POINTS AWARDED FOR PRICE

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

$$P_s = 80 \left(1 + \frac{P_t - P_{max}}{P_{max}} \right) \text{ or } P_s = 90 \left(1 + \frac{P_t - P_{max}}{P_{max}} \right)$$

Where

- P_s = Points scored for price of tender under consideration
 P_t = Price of tender under consideration
 P_{max} = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:
- 4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
 - (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,
- then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

Table 1: Specific goals for the tender and points claimed are indicated per the table below.

(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.

Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Promotion of Women owned enterprises		8		
Promotion of enterprises owned by people with disability		1		
Promotion of enterprises owned by youth		6		
Promotion of local enterprises		5		
Total		20		

DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm.....

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

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

.....	
SIGNATURE(S) OF TENDERER(S)	
SURNAME AND NAME:	.....
DATE:	.....
ADDRESS	.....

GOVERNMENT PROCUREMENT GENERAL CONDITIONS OF CONTRACT

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 General Conditions of Contract 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 General Conditions of Contract. 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 any thing 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 organization purchasing the goods.
 - 1.22 "Republic" means the Republic of South Africa.
 - 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, special conditions of contract are also laid down to cover specific supplies, services or works.
 - 2.3 Where such special conditions of contract 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 X 85, 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.

5. 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.

7. 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:
- (a) 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
 - (b) 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 organization acting on behalf of the Department.
- 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 organization acting on behalf of the Department
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mentions 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:

- (a) Performance or supervision of on-site assembly and/or commissioning of the supplied goods;
- (b) Furnishing of tools required for assembly and/or maintenance of the supplied goods;
- (c) Furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
- (d) 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
- (e) 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:
- (a) 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
 - (b) In the event of termination of production of the spare parts:
 - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
 - (ii) 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 those 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

- 5.1 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 authorized 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 contracts 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:
- (a) 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;
- (b) If the Supplier fails to perform any other obligation(s) under the contract; or
- (c) 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 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.
- 23.5 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:

- (i) The name and address of the supplier and / or person restricted by the purchaser;
- (ii) The date of commencement of the restriction
- (iii) The period of restriction; and
- (iv) The reasons for the restriction.

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

23.7 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 antidumping 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,
- (a) The parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
- (a) 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;
- (a) 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
- (b) 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 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 South African Revenue Services.

33. National Industrial Participation (NIP) Programme

- 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to a 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).

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.