

PLEASE TAKE NOTE

TENDER NUMBER: COGTA 06/ 2022

CLOSING TIME: 11:00

CLOSING DATE: 19 JULY 2022

DOCUMENTS RECEIVED AFTER THE CLOSING TIME AND DATE ARE LATE AND WILL, AS A RULE THEY WILL NOT BE ACCEPTED FOR CONSIDERATION

DOCUMENTS MUST BE SIGNED IN THE ORIGINAL THAT IS IN INK. DOCUMENTS WITH PHOTOCOPIED SIGNATURES OR OTHER SUCH REPRODUCTION OF SIGNATURES WILL BE REJECTED

**The Tender Document must be
Delivered at Reception,
Provincial Disaster Management
Centre ,11 Janadel Avenue, Block B,
Riverview Park Midrand**

**11 JANADEL
AVENUE,
BLOCK B.**

MIDRAND

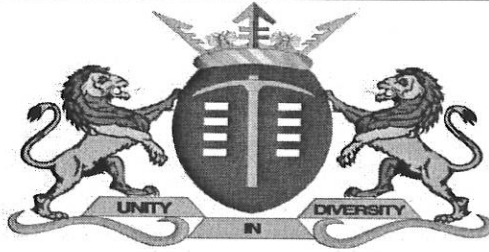
TENDERERS SHOULD ENSURE THAT TENDERS ARE DELIVERED TIMEOUSLY AT THE CORRECT ADDRESS

SUBMIT ALL TENDERS ON THE OFFICIAL TENDER FORMS – DO NOT RETYPE

TENDERS BY TELEGRAM, FACSIMILE OR OTHER APPARATUS WILL NOT BE ACCEPTED FOR CONSIDERATION

SUBMIT EACH TENDER IN SEPARATE SEALED ENVELOP

[GPG 3]



GAUTENG PROVINCE

CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS REPUBLIC OF SOUTH AFRICA

Tender Notice & Invitation to Tender

TENDER NO: COGTA 06/2022

Tender Number	Service	Evaluation Criteria	Compulsory Briefing Session	Tender Closing Date and Time
COGTA 06/2022	Establish a panel of prequalifying service providers to provide institutional development support in respect of training to councillors and officials on accountability and ethical conduct	Price =80 Equity=20 (Please refer to the B-BBEE Equity points allocation below)	Date: 04 July 2022 Time: 11H00 Venue: Zealandia Boardroom,Block B, Riverview Park, 11 Janadel Avenue, Midrand	Date: 19 July 2022 Time : 11H00

BBBEE Equity Points Allocation Table

B-BBEE Status Level of Contributor	80/20
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non Contributor	0

TECHNICAL EVALUATION (100 FUNCTIONALITY POINTS)

The technical evaluation will focus on the following aspects: Value Matrix: 0 = No document attached, 1 = Poor, 2= Average, 3 =Good, 4 =Very Good, 5 =Excellent

FUNCTIONALITY ITEM	WEIGHTING FACTOR
Expertise	50
Methodology	30
Personnel/Capacity	20
Total Points for Functionality	100
Minimum Threshold for Functionality	70

Bidders who fails to meet the minimum requirements/threshold in relation to Functionality Evaluation (70) will not be evaluated further.

Mandatory Requirements for Tenders. Service providers who intend to respond to the tender invitation must attend the compulsory briefing session and ensure that they sign the attendance register. Completion and submission of all Bid Documents and Pricing Schedules, SBD 1,3,3,4 and 6.1. The use of correction fluid (tippex) when correcting errors on SBDs is prohibited; strike through the error, correct it and initial the corrections. Bid Documents should bear the original signature of an authorised person (Proof of Authority must be submitted e.g. Company Resolution); electronic submissions will not be accepted. In the case of Joint Venture/Consortium, a joint venture/consortium agreement bearing the signature of all the parties to the joint venture/consortium, should be attached and notarised by an attorney. If the bidder intends to sub-contract, a sub-contracting agreement should be attached and signed by all parties to the sub-contracting agreement. The % (percentage) to be sub-contracted must be clearly indicated in the contract and SBD 6.1, section 7.1.1. Proposals submitted after the stipulated closing time and date will not be accepted.

Additional requirements for tenders: In order to verify the tax status of bidders, bidders are required to submit the unique security personal identification number (PIN) from SARS; Only suppliers (including all parties to Joint Ventures/Consortiums and sub-contractors) who are registered on the Central Supplier Database (CSD), www.csd.gov.za will be considered for appointment. (Proof to be attached); A Certified copy of a SANAS accredited valid BBBEE Certificate/ Sworn Affidavit, Certified copies of the company registration documents (CIPC); Certified copies of Directors/ Shareholders' IDs; Latest Audited Annual Financial Statement/ letter from accountant for new or dormant entities; Detailed company profile.

The Department adheres to all relevant Acts, including **BBBEE Act; No 53 of 2003, PPPF Act No 5 of 2000** with its associated amended Preferential regulations 2017.

Enquiries may be addressed to the Project Manager: Ms. Zeenat Motalieb at zeenat.motalieb@gauteng.gov.za or Ms Nomathemba Kgwefane @ Nomathemba.kgwefane@gauteng.gov.za and Supply Chain Management: Ms. Phumzile Malgas at phumzile.malgas@gauteng.gov.za or Ms Mahlatse Madiba at mahlatse.madiba@gauteng.gov.za

Tender documents are available on the Gauteng etender portal: <http://e-tenders.gauteng.gov.za>

Please Note: All information and documents will be treated in accordance with POPI Act.

Completed tender documents should be sealed in an envelope clearly marked with the relevant tender number (COGTA 06/2022 and description). Tender documents should be delivered in the tender box at reception, Provincial Disaster Management Centre, 11 Janadel Avenue, Block B, Riverview Park, Midrand not later than 11:00 am on or before 19 July 2022.

Faxed, electronic or late submissions will not be accepted.

Only companies who have submitted all of the above information will be considered for evaluation process. The Gauteng Department of Co-operative Governance and Traditional Affairs is under no obligation to give reasons for non-acceptance /rejection of any submission. All short listed bidders will be subjected to undergo a security screening in terms of Section 2 (1) (b) of the National Strategic Intelligence Act 67 of 2002 as amended.

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS					
BID NUMBER:	COGTA 06 /2022	CLOSING DATE:	19 JULY 2022	CLOSING TIME:	11: 00
DESCRIPTION	ESTABLISH A PANEL OF PREQUALIFYING SERVICE PROVIDERS TO PROVIDE INSTITUTIONAL DEVELOPMENT SUPPORT IN RESPECT OF TRAINING TO COUNCILLORS AND OFFICIALS ON ACCOUNTABILITY AND ETHICAL CONDUCT				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
TENDER BOX AT RECEPTION					
PROVINCIAL DISASTER MANAGEMENT CENTRE					
NO. 11 JANADEL AVENUE, BLOCK B, RIVERVIEW OFFICE PARK, MIDRAND					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Phumzile Malgas		CONTACT PERSON	Zeenat Motalieb	
TELEPHONE NUMBER	N/A		TELEPHONE NUMBER	N/A	
FACSIMILE NUMBER	N/A		FACSIMILE NUMBER	N/A	
E-MAIL ADDRESS	Phumzile.malgas@gauteng.gov.za		E-MAIL ADDRESS	zeenat@gauteng.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 CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX] <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]					
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]		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 FORM (SBD7).
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:

.....

PRICING SCHEDULE
(Professional Services)

NAME OF BIDDER:	BID NO.:
CLOSING TIME:	CLOSING DATE:

OFFER TO BE VALID FOR 90 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	HOURLY RATE	DAILY 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
	.....	.....	..... R.....
	.....	.....	..... R.....
	.....	.....	..... R.....
	.....	.....	..... R.....
	TOTAL: R.....		

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

Name of Bidder:

- 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
.....	R.....
.....	R.....
.....	R.....
.....	R.....
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 –

Ms. Phumzile Malgas

Email: Phumzile.malgas@gauteng.gov.za

Or for technical information –

Ms. Zeenat Motalieb

Email: Zeenat.motalieb@gauteng.gov.za

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

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.

with any person who is employed by the procuring institution? **YES/NO**

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

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.

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 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

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017

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

1.1 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).

1.2

- a) The value of this bid is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the **80/ 20** preference point system shall be applicable; or
- b) Either the 80/20 or 90/10 preference point system will be applicable to this tender (*delete whichever is not applicable for this tender*).

1.3 Points for this bid shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contributor.

1.4 The maximum points for this bid are allocated as follows:

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

1.5 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.

1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

2. DEFINITIONS

- (a) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **“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;
- (c) **“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;
- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **“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;
- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) **“prices”** includes all applicable taxes less all unconditional discounts;
- (h) **“proof of B-BBEE status level of contributor”** means:
 - 1) B-BBEE Status level certificate issued by an authorized body or person;
 - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
 - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) **“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;
- (j) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

3. POINTS AWARDED FOR PRICE

3.1 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

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

Where

Ps = Points scored for price of bid under consideration

Pt = Price of bid under consideration

P_{min} = Price of lowest acceptable bid

4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

4.1 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 (90/10 system)	Number of points (80/20 system)
------------------------------------	---------------------------------	---------------------------------

1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

5. BID DECLARATION

- 5.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

- 6.1 B-BBEE Status Level of Contributor: . =(maximum of 10 or 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.)

7. SUB-CONTRACTING

- 7.1 Will any portion of the contract be sub-contracted?

(*Tick applicable box*)

YES		NO	
-----	--	----	--

- 7.1.1 If yes, indicate:

- i) What percentage of the contract will be subcontracted.....%
 ii) The name of the sub-contractor.....
 iii) The B-BBEE status level of the sub-contractor.....
 iv) Whether the sub-contractor is an EME or QSE

(*Tick applicable box*)

YES		NO	
-----	--	----	--

- v) 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 least 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

8. DECLARATION WITH REGARD TO COMPANY/FIRM

8.1 Name of
company/firm:.....

8.2 VAT registration
number:.....

8.3 Company registration
number:.....

8.4 TYPE OF COMPANY/ FIRM

Partnership/Joint Venture / Consortium

One person business/sole propriety

Close corporation

Company

(Pty) Limited

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

8.6 COMPANY CLASSIFICATION

Manufacturer

Supplier

Professional service provider

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

[TICK APPLICABLE BOX]

8.7 Total number of years the company/firm has been in business:.....

8.8 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:

- 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 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) 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 –

- (a) disqualify the person from the bidding 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 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
- (e) forward the matter for criminal prosecution.

WITNESSES

1.
2.

.....
SIGNATURE(S) OF BIDDERS(S)

DATE:

ADDRESS

.....

.....



GAUTENG PROVINCE

CO-OPERATIVE GOVERNANCE AND
TRADITIONAL AFFAIRS
REPUBLIC OF SOUTH AFRICA

TERMS OF REFERENCE

**ESTABLISH A PANEL OF PREQUALIFYING
SERVICE PROVIDERS TO PROVIDE
INSTITUTIONAL DEVELOPMENT SUPPORT IN
RESPECT OF TRAINING TO COUNCILLORS AND
OFFICIALS ON ACCOUNTABILITY AND ETHICAL
CONDUCT**

JUNE 2022

BENEFICIARY	GAUTENG DEPARTMENT OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS
PROJECT	OBJECTIVE: ESTABLISH A PANEL OF PREQUALIFYING SERVICE PROVIDERS TO PROVIDE INSTITUTIONAL DEVELOPMENT SUPPORT IN RESPECT OF TRAINING TO COUNCILLORS AND OFFICIALS ON ACCOUNTABILITY ACROSS 11 TARGETED MUNICIPALITIES

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1. PURPOSE

The purpose of this Terms of Reference is to provide guidelines for the appointment and establishment of a panel of prequalifying service providers from where quotations will be sourced to provide institutional development support in respect of training for **450** councillors and officials on a skills programme: Accountability and Ethical Conduct in 11 Municipalities, as and when required.

1.1 BACKGROUND

The public sector is plagued with poor governance, lack of accountability and corruption. Resulting in failing municipalities and on a wider scale South Africa not been able to meet its developmental goals.

There are numerous legislative frameworks and policies that describe and govern how the public sector should convey themselves. The 6th Administration has identified seven (7) priorities and specific interventions in strategic sectors and corridors to achieve optimal outcomes during this decade. One of the seven priorities refer, *Building a Capable, Ethical and Developmental State*. CoGTA aligning to the priority *Building a Capable, Ethical and Developmental State* Building will capacitate both councilors and officials in order to be more accountable, advocate good governance and behave in an ethical manner.

Ethics is simply defined as the right thing to do, which is essentially concerned with a right or wrong dimension. Equally important is that ethics does not only apply to oneself but to others as well and that the organisations values and applicable laws and rules must be upheld (Schoeman, 2014). "Ethical choices are thus reflected in words, actions, decisions and behavior relative to oneself and others, which collectively reveals the ethical status of the individual or organization" (Schoeman, 2014, p. 3).

Various legislation, policies, and strategies have been formulated since the advent of the democratic dispensation as an attempt to address the problem of unethical behaviour in the South African public sector.

“The discourse on ethics in the South African public service recognizes undoubtedly that South Africa has a sound legislative and policy framework for promoting professional and ethical conduct. The *Constitution of the Republic of South Africa* (1996), as the supreme law of the country, lays the foundation for the promotion of professional and ethical behaviour. To this end, it stipulates in section 195 (a) that “public administration must be accountable and a high standard of professional ethics must be promoted and maintained”.(Manyaka & Sebola, 2013, p.75).

Even with the sound legislation and policies, the public sector is still challenged with unethical behaviour including corruption (Manyaka & Nkuma, 2014). The corruption and unethical behaviour in the public sector impacts service delivery and undermines the developmental goals of the country. In addition the adverse effects of unethical behaviour reinforces socio-political inequalities facing the country, where the rich get richer and the poor, poorer (Manyaka & Nkuma, 2014).

In order to address the current unethical and corrupt public sector, Manyaka & Sebola (2013) advocate that rigorous ethical training must be the cornerstone of an effective anti-corruption system. The training must be aimed at promoting ethical behaviour by explaining the principles of ethics in the municipal environment. In addition, providing knowledge on ethical principles, standards and professional conduct and how to apply this knowledge in real life.

During a conference in September 2019, at the National Council of Provinces (NCOP), the Auditor General had highlighted that a critical challenge facing local government is the lack of accountability and good governance. This was evident in the regressing audit outcomes, irregular expenditure, lack of accountability and lack of consequence management. Furthermore, the Auditor General maintained that this is due to the failure of both Leadership and Management to fulfil their oversight

function. The only viable solution from the Auditor General, to improve the performance on the local government, is for Leadership and Management to set the tone by being more accountable and adhering to laws that govern the municipality. Thus, capacitating both the Leadership and Management on accountability and ethical conduct.

National and Provincial Priorities focus on building a capable, ethical and developmental state. In order to achieve this, Gauteng CoGTA will in the 6th Administration, focus on a key strategic imperative. This strategic imperative relates to building capacity to eliminate corruption by promoting ethical leadership, ensuring compliance and accountability, both internally and across municipalities

2. THE AIM OF SUPPORT

The aim of the project is to provide guidelines for service providers to participate in a panel in which the selected service provider will be required to facilitate institutional development support in respect of training of **450** councillors and officials on a skills programme: Accountability and Ethical Conduct, see Table 1.

Table 1 – Selected Unit Standards for Skills Programme: Accountability and Ethical Conduct.

Learning Programme	Accountability and Ethical Conduct		
NQF Level			
Unit Standard ID	Unit Standard Title	NQF Level	Credits
243263	Demonstrate knowledge and understanding of Anti-corruption issues in the public sector	4	5
8648	Demonstrate an understanding of professional values and ethics	5	4
119342	Apply knowledge of ethical principles, standards and professional conduct in public sector management and administration	5	8

116343	Apply the principles of ethics in a municipal environment	6	10
			27

3. LEARNING OBJECTIVES

By the end of the training programme councillors will be able to demonstrate competencies:

1. Accountability and Ethical Conduct.
2. Promotion of ethical behaviour
3. Understanding the principles of ethics in the municipal environment.
4. Understanding ethical principles, standards and professional conduct and how to apply this knowledge in real life.

4. SCOPE OF WORK

4.1 Service provider activities

The successful service provider will undertake the following activities:

- Register the learner with the relevant SETA,
- Manage both the CoGTA learner database and the SETA database,
- Maintain the integrity of the information on the SETA database,
- Update the information of the learners of the SETA database,
- Obtain all relevant information, for e.g. Certified ID copied, learner information to upload on the SETA database,
- Conduct training of **450 councillors and officials** on following unit standards in relation to Accountability and Ethical Conduct (Table 1.)
- Provide learning materials that are packaged professionally, have consistent and appealing look and feel across learning areas and the language is pegged at the appropriate level for all candidates. The learning material must be bound, subdivided, include page numbers and index.
- To stipulate learning objectives and outcomes for each learning area and components thereof,
- To define how learning processes will be conducted and facilitate learning,
- To define the process and support that will be provided to candidates in completion of tasks, with the support of the Department,
- Support candidates in producing portfolios of evidence,
- Outline process of how assessment will be conducted,
- To provide formative and summative assessment,

- To issue certificates of competence for candidates,
- Provide detail on remedial action,
- To provide learners with statement of results,
- Develop project charter, risk register and communication plan,
- Compile and submit performance reports to the department, these reports should include GEYODI information,
- Report should be provided per District/Municipalities,
- Appoint a project team to be part of the CoGTA steering committee,
- Compile and provide close-out reports to LG SETA,
- Liaise with the programme team on all matters relating to the Department of Co-operative Governance and Traditional Affairs programme, and
- Compile and submit a Close-Out Report.
- **Other critical activities must include providing:**
 - **Training venue, for 450 participants for 5 days of training (Staggered). (different venues per district)**
 - **Catering**

Other Specific Considerations.

- How will the Occupational Health and Safety Act Compliance in relation to COVID-19 of the facilitators and delegators be ensured?
- Consideration needs to be made in relation to the COVID 19 Epidemic in terms of; social distancing, hand sanitisers, mask, the number of delegates per class, etc.
- **Plan and make considerations for virtual learning to take place, which needs to be zero rated**

Note (the specific considerations could change post pandemic)

4.2 CoGTA Activities

COGTA will oversee the project and provide support as follows:

- Draft a Service Level Agreement and Appointment letter for appointed Service Provider
- Develop a project implementation plan,
- Convene a project steering committee including the appointment of members, risk register and schedule monthly meetings
- Process payments in accordance with the signed agreement.

5. DURATION

- The services of the service provider will be required for a period of 3 years in CoGTA Database. However, their service will be utilised as when required by Gauteng municipalities.
- The project must be implemented for a period 12 months and the training for the skills program must be 5 days (which can be staggered). All summative and

formative assessments must be completed during the training days, and POE must be submitted on the last day of training.

6. TENDER VALIDITY PERIOD

Please note that the price offer to be valid for 90 days from the date of closing.

7. APPOINTMENT PROCEDURE

- The Preferential Procurement Regulations, 2017 Pertaining to the Preferential Procurement Policy Framework Act, Act No 5 of 2000 will be applied in evaluating and appointing the preferred service provider,
- The proposals presented are to be comprehensive as possible and the MIS team has a right reserved to request more details.
- The Successful bidder will be required to enter a Service Agreement with the Department.

8. MANDATORY REQUIREMENTS

Administrative Compliance (Mandatory Returnable Documents)

Bid documents should comply with the mandatory requirements listed below to be considered responsive. Non-responsive bids will be disqualified from the tender process.

- Service providers who intend to respond to the tender invitation **must** attend the compulsory briefing session and ensure that they sign the attendance register;
- Completion, signing and submission of all Standard Bid Documents, SBD 1,3,3,4, 6.1;
- The use of correction fluid (tippex) when correcting errors on SBDs is prohibited; strike through the error, correct it and initial the corrections;
- Bid Documents should bear the original signature of an authorised person (Proof of Authority must be submitted e.g. Company Resolution); electronic submissions will not be accepted;
- In the case of Joint Venture/Consortium, a joint venture/consortium agreement bearing the signature of all the parties to the joint venture/consortium, should be attached and notarised by an attorney;

- If the bidder intends to sub-contract, a sub-contracting agreement should be attached and signed by all parties to the sub-contracting agreement. The % (percentage) to be sub-contracted **must** be clearly indicated in the contract and SBD 6.1, section 7.1.1;
- Proposals submitted after the stipulated closing time and date will not be accepted.
- *The service provider must provide proof of registration with **relevant Seta**, accredited in **all four-unit standards** as outlined in the terms of reference. These include Unit Standard within: These include Unit Standard: **243263, 8648, 119342, 116343**. If these criteria are not met, the service provider will be disqualified.*

9. ADDITIONAL DOCUMENTS

The below listed documents are necessary for vetting and appointment purposes and should be included in bids.

- In order to verify the tax status of bidders, bidders are required to submit the unique security personal identification number (PIN) from SARS.
- Only suppliers (including all parties to Joint Ventures/Consortiums and sub-contractors) who are registered on the Central Supplier Database (CSD), www.csd.gov.za will be considered for appointment. (Proof to be attached).
- A Certified copy of a SANAS accredited valid BBEE Certificate/ Sworn Affidavit which will serve as an added advantage .
- Certified copies of the company registration documents (CIPC)
- Certified copies of Directors/ Shareholders' IDs
- Latest Audited Annual Financial Statement/ letter from accountant for new or dormant entities
- Detailed company profile

Joint ventures/consortium must submit a valid joint venture/ consortium BBEE certificate; and valid tax clearance certificates for all parties to a Joint Venture/Consortium).

10. FUNCTIONALITY EVALUATION/TECHNICAL EVALUATION

Responsive Bids will be evaluated for functionality. The technical evaluation criteria below will be applied to further shortlist responsive bids.

FUNCTIONALITY ITEM	FUNCTIONALITY BREAKDOWN	WEIGHT	MAXIMUM POSSIBLE POINTS
Expertise (50)	<ul style="list-style-type: none"> • Relevant SETA accreditation for the Service Provider. Note: the relevant Unit Standards and Modules must be clearly highlighted on the SETA print outs or screen shots inserted in the proposal. The printouts or screenshots from the SETA must be on SETA Letter head, signed and in the bidder's name), specifically related to: <p>Unit Standard ID</p> <ul style="list-style-type: none"> • 243263 knowledge and understanding of Anti-corruption issues in the public sector • 8648 Demonstrate an understanding of professional values and ethics • 119342 Apply knowledge of ethical principles, standards and professional conduct in public sector management and administration • 116343 Apply the principles of ethics in a municipal environment <p>✓ Accredited for all 4 modules and the modules are clearly highlighted on the SETA letter or print out = 5</p> <p>✓ Accredited for all 4 modules but are not clearly highlighted on the SETA letter or print out = 4</p> <p>✓ Not Accredited for all modules = 0</p> <ul style="list-style-type: none"> • 5 Reference letters from government/government entities where training of councillors or officials was conducted. • These reference letters should meet the following criteria: <ul style="list-style-type: none"> • Signed by the government/government entity, • On the letter head of the government/government entity to which services were provided, • In the name of the bidder, and • State that the client was satisfied with the services rendered. 	20	100
		10	50

	<p>✓ 5 references letters from government/government entities where training of councilors or officials was conducted. The above criteria are met = 5</p> <p>✓ 4 references letters from government/ government entities where training of councilors or officials was conducted = The above criteria are met = 4</p> <p>✓ 3 references letters from government/ government entities where of councilors or officials was conducted = The above criteria are met = 3</p> <p>✓ 2 references letters from government/ government entities where training of councilors or officials was conducted = The above criteria are met = 2</p> <p>✓ 1 reference letter from government/ government entities where training of councilors or officials was conducted, the above criteria are met = 1</p> <p>✓ No References/Reference letters not meeting criteria = 0</p> <p>Please note: only the first five reference letters that appear in the proposal will be assessed.</p> <p>• Detailed Company profile on the provision of training (Please ensure that a detailed company profile appears under a separate section in the proposal and has all the elements as requested).</p> <ul style="list-style-type: none"> • Provide a detailed company profile, indicating: <ul style="list-style-type: none"> • Mission, Vision and Values. • Company offerings that are related to training. • Roles and Responsibilities per position in the company. • Physical address. <p>✓ If all 4 criteria are met = 5</p> <p>✓ If 3 criteria are met = 4</p> <p>✓ If 2 criteria are met = 3</p> <p>✓ If 1 criterion are met = 2</p> <p>✓ If a company profile is provided but does not include any of the stated criteria =1</p> <p>✓ No company profile provided = 0</p>	10	50
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	<p>Example of training material that was conducted in government. The training material should be bound or in a file and must include a table of contents/Index and page numbers. The sample material should include a learner guide and learner workbook. (Please ensure that all the required elements as stipulated are included in the sample training material)</p> <ul style="list-style-type: none"> ✓ Learner guide and learner workbook that was conducted in government which is bound or in a file and includes: a table of contents/index and page numbers = 5 ✓ Learner guide and no learner workbook that was conducted in government which is bound or in a file, includes: a table of contents/index and page numbers = 4 ✓ Learner guide and learner workbook that was conducted in the private sector (other than government) which is bound or in a file and includes: a table of contents/index and page numbers = 3 ✓ Learner guide and no learner workbook that was conducted in the private sector (other than government) which is bound or in a file and includes: a table of contents/index and page numbers = 2 ✓ Learner guide and learner workbook from any sector, not bound or in a file and does not include a table of contents/index or page numbers = 1 ✓ No sample training material provided = 0 	10	50
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Methodology (30)	<p>Provide a detailed project plan with the following 5 items listed: 1. Detailed budget, 2. Human resource allocation, 3 timeframes, 4, printing of training material and 5. costing of training venue. All aligned to 450 councillors and officials.</p> <ul style="list-style-type: none"> ✓ <i>Provide a detailed project plan with the following 5 items listed: 1. Detailed budget, 2. human resource allocation, 3. timeframes, 4. printing of training material and 5. costing of training venue. All aligned to (450) councillor and officials = 5</i> ✓ <i>Provide a project plan but does not include all 5 mandatory items = 1</i> ✓ <i>No project plan attached/project plan not aligned to (450) councillor and officials =0</i> 	30	150
Personnel / Capacity (20)	<p><u>Project Manager</u></p> <ul style="list-style-type: none"> • Provide one (1) CV of the dedicated Project Manager that will manage this project. (Please note that the CV of the Project Manager must be clearly labelled in the proposal and only the first CV will be assessed)) • Years of experience: 5 years' or more experience in project managing training/capacity building projects in Local Government or Government in general. This must be clearly highlighted in the CV. Only the first CV of a project manager will be assessed. • Qualifications: Any Certificate/Diploma/Degree in Project Management. <ul style="list-style-type: none"> ✓ <i>1 CV with 5 years' relevant experience including certified qualifications attached = 5</i> ✓ <i>1 CV with 4 years' relevant experience including certified qualifications attached = 4</i> ✓ <i>1 CV with 3 years' relevant experience including certified qualifications attached = 3</i> ✓ <i>1 CV with 2 years' relevant experience including certified qualifications attached = 2</i> ✓ <i>1 CV with 1 years' relevant experience including certified qualifications attached = 1</i> ✓ <i>No CV's attached/Criteria not met = 0</i> 	5	25

	<p><i>If the Project Manager has more than 5 years' experience in managing similar projects, full points will be allocated.</i></p> <p><u>Facilitators</u></p> <p>Provide three (3) CV's. Please clearly label the CV's for the facilitators. Only the first 3 CV's will be assessed.</p> <ul style="list-style-type: none"> • Experience: 5 years' or more experience in facilitating training. <p>Qualifications: National Diploma: Occupationally Directed Education Training and Development Practices (ODETDP)/Train the Trainer Certificate/Certificate in Facilitation/Certificate/Degree or Diploma in Human Resource Development/Degree or Diploma in Human Resources Management</p> <p>Note: Each Facilitator will be assessed individually, and the scores will be averaged.</p> <ul style="list-style-type: none"> ✓ 3 CV's, each with (ODETDP)/Train the Trainer Certificate/Certificate in Facilitation/Certificate/Degree or Diploma in Human Resource Development or Human Resource Management and 5 years' training experience = 5 ✓ 3 CV's, each with (ODETDP)/Train the Trainer Certificate/Certificate in Facilitation/Certificate/Degree or Diploma in Human Resource Development or Human Resource Management and 4 years' training experience = 4 ✓ 3 CV's, each with (ODETDP)/Train the Trainer Certificate/Certificate in Facilitation/Certificate/Degree or Diploma in Human Resource Development or Human Resource Management and 3 years' training experience = 3 ✓ 3 CV's, each with (ODETDP)/Train the Trainer Certificate/Certificate in Facilitation/Certificate/Degree or Diploma in Human Resource Development or Diploma in Human Resource Management and 2 years' training experience = 2 ✓ 3 CV's, each with (ODETDP)/Train the Trainer Certificate/Certificate in Facilitation/Certificate/Degree or Diploma in Human Resource Development or Management Resource Management and 1 year training experience = 1 	5	25
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	<p>✓ No CV's attached/criteria not met/documents not certified = 0</p> <p><u>Project Administrators</u></p> <p>Provide two (2) CV's of the dedicated project administrators. <i>Please clearly label the CV's for administrators. Only the first 2 CV's will be assessed.</i></p> <p>Experience: The administrators must have 3-5 years of experience in training and learner administration and managing training/capacity building projects in Local Government or Government in general.</p> <p>Qualification: Certification in Microsoft office (Word, Excel, Outlook) and Certificate/Diploma in Administration/HR/Training or related field.</p> <p>✓ 2 CV's with 3 years' or more relevant experience each and the relevant qualification as indicated = 5</p> <p>✓ 2 CV's with 2 years relevant experience each and the relevant qualification as indicated = 4</p> <p>✓ 1 CV with 3-5 years' relevant experience and the relevant qualification as indicated = 3</p> <p>✓ 1 CV with 2 years relevant experience and the relevant qualification as indicated = 2</p> <p>✓ 2 CV's with less than 12 months experience and the relevant qualification as indicated = 1</p> <p>✓ 0 CV attached/no relevant qualifications/documentation is not certified = 0</p> <p>Note: Each administrator's CV will be assessed individually, and the scores will be averaged</p> <p>Note: All CV's should be recently updated. Certificates, qualification and ID's must be certified, and certification must not be older than 6 months.</p> <p>If no document is certified no points will be allocated, if documents are not certified within 6 months no points will be allocated.</p>	10	50
	TOTAL FUNCTIONALITY POINTS	100	500
	MINIMUM THRESHOLD FOR FUNCTIONALITY	70	350

Scores are allocated according to a value matrix ranging from 0 to 5 of which 0 is the lowest score that can be obtained and 5 the highest. The Maximum Possible points are calculated by multiply the weight of each criteria with the highest score (as per the value matrix) that can be obtained.

The minimum qualifying score for functionality is indicated as a percentage and is calculated as follows:

- a) The score for each criterion is added to obtain the total score; and*
- b) The following formula is applied to convert the total score to a percentage for functionality:*

So

$$Ps = Ms \times 100$$

Were:

Ps = Percentage scored for functionality by bid under consideration

So = Total score of bid under consideration

Ms= Maximum possible score

The percentage of each panel member is added and divided by the number of panel members to establish the average percentage obtained by each bidder for functionality.

11.PREFERENTIAL PROCUREMENT SYSTEM

The Preferential Procurement Policy Framework Act, Act No 5 of 2000 and its associated amended Regulations 2017 will be applied when evaluating and appointing the preferred service providers. Bids meeting the minimum threshold for functionality will be further evaluated in terms of the 80/20-point system as stipulated in the Preferential Procurement Regulations, 2017 (The calculation of price and preference

points will only apply at the RFQ stage). Shortlisted bid(s) will be allocated 20 points for a Level 1 B-BBEE status.

NB: Bidders are required to, together with their bids, submit original and valid B-BBEE

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

status level verification certificates or certified copies to substantiate their B-BBEE rating claims. A bid will not be disqualified from the bidding process if the bidder does not submit a certificate substantiating the B-BBEE status level of contribution nor is a non-compliant contributor (unless a specific B-BBEE level is required as a pre-qualification criteria). Such a bidder will score zero out of maximum of 20 points for B-BBEE.

12. BBB-EE REQUIREMENTS

The following B-BBEE requirements should be met when substantiating B-BBEE status claims.

- a) A Bidder who qualifies as an Exempted Micro Enterprise (EME) must submit a sworn affidavit or B-BBEE certificates;
- b) A Bidder who qualifies as a Qualifying Small Enterprise (QSE) and is more than 51% black owned must submit a sworn affidavit or B-BBEE certificates;
- c) Sworn affidavits submitted by bidders in support of their B-BBEE level should comply with the DTI or the CIPC format or in a similar format and must be valid, original or certified as a true copy of the original;
- d) A Bidder who qualifies as a Qualifying Small Enterprise (QSE) and is less than 51% black owned must submit a B-BBEE verification certificate issued by an

Agency accredited by SANAS (South African National Accreditation System) which has to be valid, original or certified as a true copy of the original;

- e) Bidders who do NOT qualify as EME's and QSE's as outlined in 1 and 2 above, must submit B-BBEE verification certificates that are issued by an Agency accredited by SANAS; and
- f) Public entities and tertiary institutions must also submit B-BBEE Status Level Verification Certificates together with their tenders.

NOTE: Sworn Affidavits and certification as a "true copy of the original", must comply with the requirements outlined in the Justices of the Peace and Commissioners of Oaths Act, No 16 of 1963 and its Regulations promulgated in Government Notice GNR 1258 of 21 July 1972 Justices of the Peace and Commissioners of Oaths Act, No. 16 of 1963

13. CONTACT DETAILS

All enquiries should be directed via electronic mail. The project manager should be contacted for enquiries related to the terms of reference/specifications. Tender administrative enquiries should be directed to tender administrators.

Project Managers: <i>Ms Zeenat Motalieb and Ms Nomathemba Kgwefane</i> <i>Email: Zeenat.motalieb@gauteng.gov.za</i> <i>Email: Nomathemba.kgwefane@gauteng.co.za</i>	Tender Administrators: <i>Ms Phumzile Malgas</i> <i>Phumzile.malgas@gauteng.gov.za</i> <i>Ms Mahlatse Madiba</i> <i>Email: mahlatse.madiba@gauteng.gov.za</i>
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14. TENDER DOCUMENT DELIVERY ADDRESS

Bids should be delivered in the tender box at the address provided below. All Bids should be bonded and sealed in an envelope. The envelope should be clearly marked with the tender number and description.

Provincial Disaster Management Centre

Riverview Office Park, 11 Janadel Avenue, Midrand

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)

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.

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| 2. Application | <p>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.</p> <p>2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.</p> <p>2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.</p> |
| 3. General | <p>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.</p> <p>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</p> |
| 4. Standards | <p>4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.</p> |
| 5. Use of contract documents and information; inspection. | <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> |
| 6. Patent rights | <p>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.</p> |
| 7. Performance security | <p>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.</p> |

- 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 an organization 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:
- (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 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 fulfillment 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 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 canceling 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 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:

- (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 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,
- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
 - (b) the purchaser shall pay the supplier any monies due the supplier.

**28. Limitation of
liability**

- 28.1 Except in cases of criminal negligence or willful 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 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 South African Revenue Services.
- 33. National Industrial Participation Programme (NIP)** 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.