



cooperative governance  
and traditional affairs  
Department of Cooperative Governance  
and Traditional Affairs  
FREE STATE PROVINCE

**MR. S.T.R RAMAKARANE**  
**HEAD OF DEPARTMENT**

**APPOINTMENT OF A SERVICE PROVIDER/S AS A PROJECT  
MANAGER FOR THE RECONSTITUTION OF TWELVE  
TRADITIONAL COUNCILS IN THE PROVINCE**

**2023-2024**

# BID DOCUMENT

BID NUMBER: FSCOGTA (RFP) 003/2023-2024

CLOSING DATE: Friday, 09 February 2024

TIME: 11:00

VALIDITY PERIOD: 60 DAYS

***APPOINTMENT OF A SERVICE PROVIDER/S AS A PROJECT  
MANAGER FOR THE RECONSTITUTION OF TWELVE TRADITIONAL  
COUNCILS IN THE PROVINCE***

**NB:** All documents must be completed with original black ink.

**All bidders must indicate their CSD Registration number**

**MAAA.....**

## Bid Submission Checklist

Bidders are required to complete the following checklist and to submit it **with** their bids:

Please note that all the information listed below should be included in the **bid**.

No	Requirement	Compliant? (Tick <input checked="" type="checkbox"/> in appropriate box)	
		Yes	No
<b>1</b>	<b>SECTION 1</b>		
1.1	Invitation to Bid: SBD 1		
1.2	Pricing Schedule: SBD 3.3		
1.3	Declaration of Interest: SBD 4		
1.4	Preferential Procurement Regulations 2022: SBD 6.1		
<b>2</b>	<b>SECTION 2</b>		
2.1	General Condition of Contract		
<b>3</b>	<b>SECTION 3</b>		
3.1	Specifications / Terms of References Criteria		

# SECTION 1

## PART A

## INVITATION TO BID

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/PUBLIC ENTITY)</b>					
BID NUMBER:	FSCOGTA (RFP) 003/2023-2024	CLOSING DATE:	09 / 02 / 2024	CLOSING TIME:	11: 00 AM
DESCRIPTION	APPOINTMENT OF A SERVICE PROVIDER/S AS A PROJECT MANAGER FOR THE RECONSTITUTION OF TWELVE TRADITIONAL COUNCILS IN THE PROVINCE				
<b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)</b>					
OR TAMBO HOUSE, MAIN ENTRANCE, GROUND FLOOR					
Ground Floor, OR Tambo House, Cnr Markgraaff & St Andrews Streets Bloemfontein					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>		
CONTACT PERSON	Mr. King Sithole		CONTACT PERSON	Mr. Thamsanqa Mateza	
TELEPHONE NUMBER	066 487 4970		TELEPHONE NUMBER	066 487 4857	
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	King.sithole@fscogta.gov.za		E-MAIL ADDRESS	thami@fscogta.gov.za	
<b>SUPPLIER INFORMATION</b>					
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:	MAA.A
I. ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		II. ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]	
<b>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>					
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, 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](http://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: .....

## SBD 3.3

**PRICING SCHEDULE**

(Professional Services)

NAME OF BIDDER: ..... BID NO: FSCOGTA (RFP) 003/2023-2024

CLOSING TIME 11:00

CLOSING DATE...9 February 2024.....

OFFER TO BE VALID FOR ...60 DAYS FROM THE CLOSING DATE OF BID.

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY **(ALL APPLICABLE TAXES)
	<b>Appointment of a Professional Service Provider as Project Manager for the Reconstitution of Twelve (12) Traditional Councils in the Province:</b>  a) Maluti A Phofung – 10 Traditional Councils in QwaQwa and 1 at MaKgolokweng b) Mangaung Metro – 1 in Thaba-Nchu  <b>Key Deliverables:</b>  1. Finalise and submit the situational analysis report of the 12 Traditional Councils, taking into consideration the delimitations of boundaries report 2. Draw and submit to the Department a Provincial Electoral Roll-out Plan 3. Submit the programme for the induction and training of electoral support staff 4. Submit the programme on stakeholder mapping and mobilization 5. Submit Post Voting, the lists of selected and elected members of Traditional Councils  NB: The key deliverables outlined are to cover all the terms of reference outlined in section 3 of the bid document.	

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

- 5.1. Travel expenses (specify, for example rate/km and total km, class of air travel, 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 fund contributions and skills development levies.

- 5.2. Other expenses, for example accommodation (specify, e.g. 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.

.....  
.....  
.....  
.....

7.1. Training expenses (specify, for example rate/person, venue, training material 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.....
.....	.....	.....	R.....
.....	.....	.....	R.....
TOTAL: R.....			.....

Any enquiries regarding bidding procedures may be directed to  
Mr. King Sithole at 066 487 4970 or [king@fscogta.gov.za](mailto:king@fscogta.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 interest<sup>1</sup> 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

<sup>1</sup>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 Do you, or any person connected with the bidder, have a relationship 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 consortium<sup>2</sup> 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

---

<sup>2</sup> 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.

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

## **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**

- a) The applicable preference point system for this tender is the 80/20 preference point system.
- b) 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:

<b>POINTS</b>	
<b>PRICE</b>	80
<b>SPECIFIC GOALS</b>	20
<b>Total points for Price and SPECIFIC GOALS</b>	<b>100</b>

1.5 Failure on the part of a tenderer 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.

- 1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

## 2. DEFINITIONS

- (a) **“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) **“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) **“tender for income-generating contracts”** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) **“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

## 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

### 3.1. POINTS AWARDED FOR PRICE

#### 3.1.1 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**

$$Ps = 80 \left( 1 - \frac{Pt - Pmin}{Pmin} \right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

### 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 points is allocated for price on the following basis:

80/20

$$Ps = 80 \left( 1 + \frac{Pt - P_{max}}{P_{max}} \right)$$

Where

- Ps = Points scored for price of tender under consideration  
Pt = Price of tender under consideration  
Pmax = 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 (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Blacks and people who had no franchise on national elections before 1994 constitution (more than 50% ownership)	3	
Women (more than 30% ownership)	5	
Youth (more than 30% ownership)	4	
People with disability (more than 30% ownership)	3	
promotion of local economy in terms of province, region, municipal area or rural area (within Free State)	5	

#### 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.

..... <b>SIGNATURE(S) OF TENDERER(S)</b>	
<b>SURNAME AND NAME:</b>	.....
<b>DATE:</b>	.....
<b>ADDRESS:</b>	.....
	.....
	.....
	.....
	.....

# SECTION 2

## **Annexure A**

### **GOVERNMENT PROCUREMENT**

#### **GENERAL CONDITIONS OF CONTRACT**

July 2010

#### **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 markets 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 X85, Pretoria 0001, or accessed electronically from [www.treasury.gov.za](http://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**

- 5.1 The supplier shall not, without the purchaser's prior written consent, **contract** disclose the contract, or any provision thereof, or any specification, documents plan, drawing, pattern, sample, or information furnished by or on and behalf of the purchaser in connection therewith, to any person other information; than a person employed by the supplier in the performance of the inspection. 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 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** 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** 18.1 No variation in or modification of the terms of the contract shall be amendments made except by written amendment signed by the parties concerned.
- 19. Assignment** 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.
- 20. Subcontracts** 20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.
- 21. Delays in the** 21.1 Delivery of the goods and performance of services shall be made by supplier's the supplier in accordance with the time schedule prescribed by the performance 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** 23.1 The purchaser, without prejudice to any other remedy for breach of **for default** 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** 24.1 When, after the date of bid, provisional payments are required, or anti **and countervailing** dumping or countervailing duties are imposed, or the amount of a ~~duties and rights~~ 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** 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the **Majeure** 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** 26.1 The purchaser may at any time terminate the contract by giving written **for insolvency** 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** 27.1 If any dispute or difference of any kind whatsoever arises between the **Disputes** 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

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

(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.

33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.

**Prohibition of  
Restrictive  
practices**

- 34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
- 34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.
- 34.3 If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.

# SECTION 3

## **TERMS OF REFERENCE**

### **APPOINTMENT OF A SERVICE PROVIDER/S AS A PROJECT MANAGER FOR THE RECONSTITUTION OF TWELVE TRADITIONAL COUNCILS IN THE PROVINCE**

#### **1. Background**

- 1.1. A traditional council is a statutory basic administrative unit of a recognized traditional community headed by a recognized senior traditional leader.
- 1.2. The Traditional and Khoi-San Leadership Act, 2019 (Act No.3 of 2019) hereinafter referred to as the TKLA, was passed into law on 20 November 2019. This legislation has come into operation on April 01, 2021 as per the proclamation by the President.
- 1.3. The TKLA aligns the terms of office of all institutions of traditional leadership, i.e, Traditional Councils, Principal Traditional Councils, Kingship / Queenship Councils, Local Houses of Traditional Leaders and Provincial Houses of Traditional Leaders with the term of office of the National House of Traditional Leaders.
- 1.4. The term of office of all traditional councils nationally, came to an end on 31 March 2022, as prescribed by the TKLA. Upon completion of the audit of headman ship and headwoman ship, the Department is expected to commence with the process of the reconstitution of twelve traditional councils in the Province. Section 16(4) of the TKLA provides for the constitution or reconstitution of traditional councils.

#### **2. Purpose / Objective**

- 2.1. The purpose of this proposal or bid is to identify and appoint a professional Service Provider/s as Project Manager to administer and manage the process of twelve traditional council's elections 2024 for a period of Nine (9) months.
- 2.2. Appointment of a Professional Service Provider/s as Project Manager for the Reconstitution of Twelve (12) Councils in the Province:

2.3. The provisions of section 16(2)(c) set out the process in terms of how the composition of a traditional council must be followed. Section 16(2)(c)(i) states that 40% of members elected in terms of paragraph (f) or elected in terms of section 21 of the TKLA .

- a) Maluti A Phofung – 10 Traditional Councils in QwaQwa and 1 at MaKgolokweng
- b) Mangaung Metro – 1 in Thaba-Nchu

**3. Key Deliverables:**

- a) Finalize and submit the situational analysis report of the 12 Traditional Councils, taking into consideration the delimitations of boundaries report
- b) Draw and submit to the Department a Provincial Electoral Roll-out Plan
- c) Submit the programme for the induction and training of electoral support staff
- d) Submit the programme on stakeholder mapping and mobilization
- e) Submit Post Voting, the lists of selected and elected members of Traditional Councils

**4. Information session (Non-Compulsory) details:**

- ❖ Date: 31 January 2024
- ❖ Venue: Bloemfontein, 7 Mirriam Makeba Street (Formerly Elizabeth Street), LT Trust Building, 1st Floor Boardroom
- ❖ Time: 10H00am

**And / a virtual session:**

A Microsoft Virtual Information Session will take place on the following date:

**Date: 31 January 2024**

**Time: 10H00am**

**Venue: MICROSOFT VIRTUAL SESSION ([Click here to join the meeting](#))**

**Alternatively the link can also be accessible on Departmental website**

The session will provide Bidders with an opportunity to obtain clarity on certain aspects of the process as set out in this document and to address any substantial issues they might have.

The State reserves the right to answer questions at the session or to respond formally after the briefing session.

**5. Costing**

5.1. Prices must be inclusive of all costs (Disbursements, VAT, etc)

- 5.2. In case of disbursements, the following costs must reflect on the total bid amount and must be calculated as follows:
- 5.2.1. Travel expenses (specify, for example rate/km and total km, class of air travel, etc). Only actual costs are recoverable. **Proof of the expenses incurred must accompany certified invoices. The AA rates/Google map should be utilized to determine the distances**
- 5.2.2. Other expenses, for example accommodation (specify, e.g. 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.**
- 5.3. The Department reserves the right to consult with the Guide on Hourly Fee Rates for Consultants issued by the Department of Public Service and Administration (DPSA), accessible from the website [www.dpsa.gov.za](http://www.dpsa.gov.za) as a benchmark to evaluate the offered tariffs or to determine the reasonableness of the rates charged.

## 6. OWNERSHIP

Shareholder/Member of Company/Individual will not be allowed to represent/bid for more than one business, if you submit more than one bid it will result in disqualification of both bids.

Where a Shareholder/Member of Company/Individual has an interest in any other company that is participating in this bid, must completing the below table. List of Shareholding/Membership by Name of business, Position occupied and Percentage of shareholding in the business:

NAME OF BUSINESS	POSITION OCCUPIED IN THE BUSINESS	% OF SHAREHOLDING IN THE BUSINESS	INDICATE BY TICKING X NEXT TO THE BUSINESS YOU ARE REPRESENTING IN THIS BID.

The duration for this contract will be for a period of nine (9) months from the commencement of the contract.

## 7. Price adjustments

No price adjustments will be allowed during the duration of the contract

## 8. Submission of bid documents/s

Completed bid documents should be sealed, clearly marked **FSCOGTA (RFP) 003/2023-2024** and deposited in the bid box on the address stated in the invitation on or before **11:00 on the 9 February 2024** which is accessible 24 hours at the OR Tambo House, Main Entrance, Ground Floor Cnr. St. Andrews Street and Markgraaff Street, Westdene, Bloemfontein, 9301

Bidders are to ensure that all pages of the document are attached.

## **9. Compilation of documents**

All documents should be completed with black ink on the date and time of submission

## **10. Scope of work / deliverables**

The Department seeks to appoint a competent independent service provider with electoral expertise to manage a free and fair process for the Traditional Council Elections. The Department will bear the responsibility for some of the critical tasks such as direct liaison with Traditional Leaders and their structures. It is also envisaged that some functions may be executed in concert with the Department. The appointed service provider will be required to perform the services outlined below.

### **10.1. Project Planning**

Critical to the success of this project is the development of a Comprehensive Plan. The service provider will thus be required to provide Electoral Program Design and Planning services incorporating the following:

- a) Election Project Plan
- b) Electoral Regulations and Protocols
- c) Project ramp-up and offices set-up
- d) Electoral Administration
- e) Election Timetable
- f) Communications and Voter Education
- g) Compilation and Certification of the Voters Registers
- h) Electoral Staff Recruitment and Training
- i) Preparations for Voting Day
- j) Management of Voting Day Proceedings
- k) Security

### **10.2. Electoral Program Management**

The service provider will provide technical electoral services and programme implementation management support in activities associated with the electoral project delivery value chain. In addition, the service provider will be required to review electoral regulations where necessary to ensure the smooth conduct of free and fair elections. For effective management of the electoral programme, the service provider will be required to establish liaison and effective communication channels and protocols with the Department and other key stakeholders, as well as establish relevant structures required to oversee the delivery of the Traditional Council Elections.

The service provider will also be expected to provide a CV of a suitably qualified person to be appointed as the Chief Electoral Officer. Such person must have knowledge of the administration of elections.

Proven track record and capacity to plan for and manage community elections and related constitutive processes.

#### **10.3. Voters Registers**

The service provider must compile a register of all eligible voters for each of the traditional communities where elections will be held and facilitate the certification of the voter registers, once they have been compiled and verified.

#### **10.4. Knowledge of the Legal Framework**

In-depth knowledge of the legislative framework governing traditional communities, especially legislation pertaining to the reconstitution processes viz. the TKLA, related provincial laws and regulations.

#### **10.5. Communications, Stakeholder Management and Voter Education**

The service provider will be required to assist with the establishment of effective communication channels with candidates and voters, and with affected structures and communities. The service provider should develop and execute an effective voter education programme. The Department will manage media liaison, and provide necessary support for communications and voter education

#### **10.6. Distinct knowledge and understanding of the Traditional Leadership Sector**

The service provider is required to demonstrate familiarity with the traditional affairs sector, viz. proven ability and history of working with traditional leaders and communities and with knowledge of traditional etiquette, protocols, processes and modus operandi.

#### **10.7. Electoral Administration**

The service provider is required to perform all administrative functions related to elections e.g. publication of the electoral timetable, nomination of candidates etc. Other activities will include, amongst other functions, the design, distribution, submission and assessment of nomination forms, before their submission to the Department, and publication of the final list of candidates per traditional community.

#### **10.8. Monitoring and Securing the Campaigning Period**

The service provider will have to convene the candidates' briefing session(s) and certify candidates and their campaign materials. The service provider will also be required to monitor the campaign period to facilitate a permissible environment for campaigning. The Department will ensure that in areas where stability is

#### **10.9. Preparations for Voting Day**

The service provider will prepare for proceedings on Voting Day, through activities including the following:

- a) Design of voting stations
- b) Deployment plan of Voting Day staff
- c) Design and Printing of ballots
- d) Recruitment and training of electoral staff
- e) Deployment of voting and counting staff on Voting Day
- f) Procurement of Voting Day materials and supplies

#### **10.10. Voting Day**

The service provider will manage Voting Day activities including:

- a) Identification of voters
- b) Voting
- c) Vote counting
- d) Safekeeping of voting materials

#### **10.11. Election Results**

The service provider will also be expected to manage the election results phases including:

- a) Announcement of preliminary election results
- b) Management of objections and appeals to preliminary results
- c) Announcement of final election results
- d) Certification and declaration of election results

#### **10.12. Project Closure**

At the conclusion of the Project, the service provider will be required to submit a comprehensive report to the Department of Cooperative Governance and Traditional Affairs on the Traditional Council Elections.

### **11. DURATION OF THE CONTRACT**

The duration of the contract will be for a period not exceeding nine (9) months from the date of appointment, subject to dispute/s that may arise and the resolution/s thereof

### **12. REPORTING REQUIREMENTS**

In addition to the election report, the successful service provider will also be expected to submit monthly written reports to the Department of Cooperative Governance and Traditional Affairs, or as and when required during the contractual period.

### **13. FORM OF PROPOSAL**

Bidders are required to complete the official bidding documents in all respects. The bid proposal must be received at the address specified on the bid document, on closing date and time specified, properly and fully completed and signed in black ink. In addition to this requirement, bidders are also requested to attach the following documents in support of their bids:

- a) A tax pin.
- b) A rating provided by a B-BBEE verification agency based on the relevant B-BBEE code of good practice, if a preference is claimed in respect of the service providers. A trust, consortium or joint venture must submit a consolidated B-BBEE Status Level Verification Certificate.
- c) Company / Consortium profile.

- d) A list of projects involving the provision of the relevant service(s).
- e) Particulars of proposed team members.
- f) Qualifications and Experience of personnel submitted as a Curriculum Vitae (CV) per proposed resource.
- g) A technical proposal detailing the proposed approach / methodology.
- h) A proposed programme / schedule of proposed activities.
- i) Certified copy of VAT certificate.
- j) Consortium / Joint Venture Agreement or Intent.
- k) Pricing Schedule

#### 14. COMPETENCIES AND EXPERTISE

The prospective bidders are required to supply a methodology that will be employed to undertake the tasks. Over and above the technical aspects associated with the required services, the methodology should reflect the following aspects which would be used as criteria for risk assessment during the assessment of bids:

- a) An in-depth understanding of the terms of reference, with particular focus on the scope;
- b) A sound knowledge and understanding of the legislation which provides for the constitution of Houses of Traditional Leaders and Traditional Councils;
- c) The Department's mandate with regards the constitution of traditional councils;
- d) Proven competency and experience in election management;
- e) Qualifications and Experience of personnel submitted as a Curriculum Vitae (CV) per proposed professional resource.

#### 15. EVALUATION PROCESS

The evaluation process comprises the following phases:

Phase I	Phase II	Phase III	Phase IV	Phase V
<b>Administrative compliance</b>	<b>Functionality requirements</b>	<b>Price and B-BBEE</b> (Price include Total Cost of Ownership (TCO))	<b>Negotiations</b>	<b>Signing of letters of acceptance and contracts</b>
Compliance with <b>Mandatory and Non-Mandatory</b> Bid Requirements  <b>Mandatory</b> 1. CSD Registration	Bids will be assessed to verify bidders capability and ability to execute the contract through functionality.	Bids evaluated in terms of the 80/20 preference system  <b>Price: 80</b> <b>Specific Goals: 20</b>	Bids will be negotiated for best offers, terms and conditions	Service Provider/s will be requested to sign contracts and other important documents for the contract

Phase I	Phase II	Phase III	Phase IV	Phase V
2. Submission of separate Tax Status Pin/ CSD Number in case of Consortia / Joint Ventures / Sub-Contractors	Bidders will be disqualified from the bidding process for failing to achieve the minimum functionality score of 70 points.			

## PHASE I: ADMINISTRATIVE COMPLIANCE

During this phase Bidders' response will be evaluated based on the **mandatory** and **non-mandatory** requirements indicated hereunder. This phase is not scored and Bidders who do not submit acceptable tenders by failing to comply with all the mandatory criteria and conditions will be disqualified.

### Registration on Central Supplier Database (CSD)

The Bidders must be registered on the Central Supplier Database (CSD). If you are not registered, proceed to complete the registration prior to submitting your bid. Refer to <https://secure.csd.gov.za/> to register. Ensure that all documentation on the database is updated and valid.

- i. Are you a registered on the Government's Central Supplier Database (CSD)? (Yes/No)
- ii. Complete your registered CSD vendor number on the checklist.
- iii. Provide a copy of the CSD Registration "Summary Report".
- iv. Tax Compliance Status pin
- v. Bidders must ensure that their tax information on Central Supplier Database (CSD) is in good standing and submit a valid tax compliance status pin.

### Tax Compliance

Where the recommended bidder is not tax compliant, the bidder will be informed in writing of their non-compliant status and the bidder will be requested to provide submit written proof from SARS of their tax compliance status or proof that they have made an arrangement with SARS of their tax compliance obligations within 7 working days. The bidder should thereafter provide the Department with proof of their tax compliance status which should be verified via the central supplier database or filling.

Should the recommended bidder fail to provide written proof of tax compliance status in terms of the paragraph above, the department will reject such a bid.

The Tax Compliance status requirements are also applicable to foreign bidders/individuals who wish to submit bids.

## PHASE II: FUNCTIONALITY

### Functionality Evaluation as per the Terms of Reference

Functionality will be evaluated on the basis of the responses on the Functionality Questionnaire and supporting documentation supplied by the Bidders:

Criteria	Minimum requirement	Points	Maximum Points
<b>1. Experience of the bidder</b>  Reference letters from at least three (3) referees on the similar work completed within electoral environment system. <ul style="list-style-type: none"> <li>▪ 3 letters and more = 30 points</li> <li>▪ 2 letters = 20 points</li> <li>▪ 1 letter = 10 points</li> <li>▪ 0 letter = 0 points</li> </ul>	Completion of at least 3 projects of similar scope, supported by appointment letters, completion certificates and contactable references.	30	30
<b>2. Project manager experience</b> <ul style="list-style-type: none"> <li>▪ CV demonstrated 3 years' experience and above = 30 points</li> <li>▪ CV demonstrated 2 years' experience = 20 points</li> <li>▪ CV demonstrated 1 years' experience = 10 points</li> <li>▪ CV demonstrated less than 1 years' experience = 0 point</li> </ul>	Project manager possesses extensive experience in electoral administration  Detailed CV with demonstrated experience in electoral processes, knowledge of traditional affairs matters, analytic and dispute resolution skills with a minimum of three (3) years and above.	30	30
<b>3. Voting Stations Presiding Officers</b> <ul style="list-style-type: none"> <li>- CV demonstrated 2 years' experience and above = 10 points</li> <li>- CV demonstrated 1 years' experience = 5 points</li> <li>- CV demonstrated less than 1 years' experience = 0 point</li> </ul>	Particulars of proposed team members, inter alia, relevant qualifications, detailed CV's and minimum of two (2) year experiences  The bidder must have presiding	10	10

	officers with extensive experience in electoral administration.		
<b>4. Project execution methodology</b>	Provide a detailed methodology for enlisting proposed activities. A clear and concise methodology approach covering aspects listed in the terms of reference A project implementation charter	30	30
Detailed Methodology with a project implementation charter = 30 Points			
Summarized methodology with a project implementation charter = 20 Points			
Detailed/ Summarized methodology without a project implementation charter = 0 Point			
No methodology / project implementation charter submitted = 0 Point			
<b>Total</b>			<b>100</b>

**NB! A bidder that scores less than 70 points out of a 100 in respect of functionality will be disqualified and will not be included in the database.**

### **Phase III: Preference Point System**

In terms 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:

- The bid price (maximum 80 points)
- RDP and specific goals (maximum 20 points)

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

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

Where

$P_s$  = Points scored for comparative price of bid under consideration

$P_t$  = Comparative price of bid under consideration

$P_{\min}$  = Comparative price of lowest acceptable bid

A maximum of 20 points may be allocated to a Bidder for attaining their RDP and specific goals in accordance with the table below:

<b>CATEGORIES OF PEOPLE HISTORICALLY DISADVANTAGED INDIVIDUALS</b>	<b>Requirements</b>	<b>Number of points (80/20 system)</b>	<b>Points claim</b>
<b>Blacks and people who had no franchise on national elections before 1994 constitution (more than 50% ownership)</b>	Certified ID copy and CIPC registration/ CSD report/ sworn affidavit from the commissioner of oaths	3	
<b>Women (more than 30% ownership)</b>	Certified ID copy and CIPC registration/ CSD report/ sworn affidavit from the commissioner of oaths	5	
<b>Youth (more than 30% ownership)</b>	Certified ID copy and CIPC registration/ CSD report/ sworn affidavit from the commissioner of oaths	4	
<b>People with disability (more than 30% ownership)</b>	Medical report sanctioned by qualified professional and CIPC registration/ CSD report	3	
<b>CATEGORIES OF RDP GOALS</b>			
<b>promotion of local economy in terms of province, region, municipal area or rural area (within the Free State)</b>	Municipal rates/ lease agreement accompanied by municipal rates statement of the landlord	5	

Bidders are required to complete the preference claim form (SBD 6.1), and submit their original and valid B-BBEE verification certificate issued by a verification agency accredited by the South African Accreditation System (SANAS) or a certified copy thereof or a valid sworn affidavit (DTIC format) signed by the EME/QSE representative and attested by a commissioner of oath.

Bidders must ensure that the B-BBEE status level verification certificates submitted are issued by the following agencies:

- (i) Tenderers other than EME/QSEs: Verification agencies accredited by SANAS, or
- (ii) Tenderers who qualify as EME/QSEs: Sworn affidavit signed by the EME/QSE representative and attested by a Commissioner of oaths.

Verification agencies accredited by SANAS are identifiable by a SANAS logo and a unique BVA number.

**Certificates issued by IRBA and Accounting Officers have been discontinued and will not be considered.**

Only Bidders who have completed and signed the declaration part of the preference claim form and who have submitted a B-BBEE verification certificate issued by a verification agency accredited by the South African Accreditation System (SANAS) or valid sworn affidavit signed by the EME/QSE representative and attested by a Commissioner of oath will be considered for Points for Specific Goals.

Failure on the part of the Bidder to comply above will be deemed that Specific Points are not claimed.

#### **16. OVERALL CRITERIA**

<b>CRITERIA</b>	<b>MAXIMUM POINTS</b>
Price	80
RDP and Specific goals	20
<b>Grand Total</b>	<b>100</b>

#### **17. AWARD OF CONTRACT**

Free State Department of COGTA reserves its right at its sole discretion to appoint one or more bidder to implement this project. The number/allocation of service provider/s to be appointed is the prerogative of the Accounting Officer.

#### **18. LATE BIDS**

Bids received after the closing date and time, at the address indicated in the bid documents, will not be accepted for consideration and where practicable, be returned unopened to the Bidder.

#### **19. COUNTER CONDITIONS**

Bidders' attention is drawn to the fact that amendments to any of the Bid Conditions or setting of counter conditions by Bidders will result in the disqualification of such bids.

#### **20. FINANCIAL MANAGEMENT**

- 20.1. The Company/ies must implement the rates negotiated by the COGTA with successful bidders.
- 20.2. The Company/ies will be responsible to manage the service provider accounts. This will include the timely receipt of invoices to be presented to COGTA for payment within the agreed time period.
- 20.3. The Company/ies are responsible for the consolidation of invoices and supporting documentation to be provided to COGTA's Financial Department on the agreed time period (e.g. weekly).

20.4. COGTA will settle the service providers' accounts within the agreed payment terms.

## **21. NEGOTIATIONS**

The Free State Department of COGTA reserves the right to negotiate with the shortlisted Bidder/s a flat rate prior to awarding of the bid and with the successful Bidder/s for more cost-effective rates post awarding of the bid based on market conditions.

## **22. AGREEMENTS**

22.1. A Service Level Agreement shall be entered into with the Free SDepartment of COGTA to clarify specific operational provisions. The Service Level Agreement will be subject to the General Conditions of Contract (GCC), the Special Conditions of Contract (SCC) and the bid documents.

22.2. Should funds no longer be available to pay for the execution of the responsibilities of the agreement, the Department may terminate the Agreement in its own discretion or temporarily suspend all or part of the services by notice to the successful bidder who shall immediately make arrangements to stop the performance of the services and minimize further expenditure, provided that the successful bidder shall thereupon be entitled to payment in full for the services delivered, up to the date of cancellation or suspension.

## **23. ACCEPTANCE OF THE TERMS OF REFERENCE AND GENERAL CONDITIONS OF CONTRACT**

Failure to accept the Terms of Reference and the General Conditions of Contract or any part thereof, will result in the bid not being considered. Bidders may not amend any of the Special Conditions or include their own conditions, as such amendments or inclusions will result in disqualification of the bid

## **24. FRONTING**

The Free State Department of COGTA supports the spirit of broad based black economic empowerment and recognizes that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent and legally compliant manner. Against this background the Free State Department of COGTA condemn any form of fronting.

The Free State Department of COGTA, in ensuring that Bidders conduct themselves in an honest manner will, as part of the bid evaluation processes, conduct, or initiate the necessary enquiries/investigations to determine the accuracy of the representation made in bid documents.

Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the Department of Trade, Industry and Competition be established during such enquiry / investigation, the onus will be on the Bidder / contractor to prove that fronting does not exist. Failure to do so within a period of 14 days from date of notification may invalidate the bid / contract and may also result in the restriction of the Bidder /contractor to conduct business with the public sector for a period not exceeding ten years, in addition to any other remedies the Free State Department of COGTA may have against the Bidder / contractor concerned.

## **25. SUPPLIER DUE DILIGENCE**

The Free State Department of COGTA reserves the right to conduct supplier due diligence during evaluation, prior to final award or at any time during the contract period. This may include site visits.

## **26. VERIFICATION OF BIDDERS**

At any time after the award and during the execution of the contract, the status of the supplier/bidder will be verified against list of restricted supplier and SARS vendor list and should a default be detected, the procedure for the restriction of the supplier as stated in **National Treasury SCM Instruction Note number 3 of 2021/22** will be followed.

## **27. PRESENTATION**

The Free State Department of COGTA may require presentations/interviews from the short-listed Bidders as part of the bid process.

## **28. COMMUNICATION AND CONFIDENTIALITY**

The Free State Department of COGTA may communicate with Bidders where clarity is sought after the closing date of the bid and prior to the award of the contract, or to extend the validity period of the bid, if necessary.

All communication between the Bidder and the Free State Department of COGTA must be done in writing.

Whilst all due care has been taken in connection with the preparation of this bid, the Free State Department of COGTA makes no representations or warranties that the content of this bid or any information communicated to or provided to Bidders during the bidding process is, or will be, accurate, current or complete. The Free State Department of COGTA, and its officers, employees and advisors will not be liable with respect to any information communicated which is not accurate, current or complete.

If a Bidder finds or reasonably believes it has found any discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by the Free State Department of COGTA (other than minor clerical matters), the Bidder must promptly notify the Free State Department of COGTA in writing of such discrepancy, ambiguity, error or inconsistency in order

to afford the The Free State Department of COGTA an opportunity to consider what corrective action is necessary (if any).

Any actual discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by the Free State Department of COGTA will, if possible, be corrected and provided to all Bidders without attribution to the Bidder who provided the written notice.

All persons (including Bidders) obtaining or receiving this bid and any other information in connection with this Bid or the Tendering process must keep the contents of the Bid and other such information confidential, and not disclose or use the information except as required for the purpose of developing a proposal in response to this Bid.

## **29. AGREEMENTS**

A Service Level Agreement shall be entered into with the Free State Department of COGTA to clarify specific operational provisions. The Service Level Agreement will be subject to the General Conditions of Contract (GCC), the Special Conditions of Contract (SCC) and the bid documents.

Should funds no longer be available to pay for the execution of the responsibilities of **FSCOGTA (RFP) 003/2023-2024**, the Free State Department of COGTA may terminate the Agreement in its own discretion or temporarily suspend all or part of the services by notice to the successful bidder who shall immediately make arrangements to stop the performance of the services and minimize further expenditure, provided that the successful bidder shall thereupon be entitled to payment in full for the services delivered, up to the date of cancellation or suspension.

## **30. SETTLEMENT OF DISPUTES**

Notwithstanding clauses 27 of the GCC, mediation proceedings will not be applicable to this contract.

## **31. OFFICIALS PROHIBITED FROM SUBMITTING BIDS**

In accordance with Treasury Instruction Note 17 of 2012, an employee of the Free State Department of COGTA or any provincial/public entity or municipality may not have a business interest in any entity conducting business with the STATE.

According to the Public Service Regulations, 2016, an employee may not do business with any organ of state.

The Free State Department of COGTA may not award any tender or enter into any contract with an employee in the employment of the State.

All bids received contrary to Treasury Instruction Note 17 of 2012 and the Public Service Regulations, 2016 (Regulation 13) shall be disqualified.

## **32. JOINT VENTURE AGREEMENTS**

Where an entity forms a Joint Venture or a Consortium with another entity and/or other entities, such parties must express in the bid proposal and a JV agreement should be submitted together with the bid.

Individual Entity/ies must be registered on the CSD and after closing and before awarding, register a Joint Venture or a Consortium on the CSD. It will also be expected that a joint venture/consortium should open a joint bank account (proof of the bank account should be submitted after awarding) within 30 days after the awarding of the contract).

### 33. THE BIDDER MUST COMPLETE THE FOLLOWING

I \_\_\_\_\_ in my capacity as \_\_\_\_\_ of the

company, hereby certifies that I take note and accept the above-mentioned Special, general Conditions of the Contract and all the other conditions as per signed standard bidding documents.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
CAPACITY

Contact person of company: \_\_\_\_\_

Tel. of company: (\_\_\_\_) \_\_\_\_\_  
(\_\_\_\_) \_\_\_\_\_

Fax \_\_\_\_\_ of \_\_\_\_\_ company:

Approved by:



Mr STR Ramakarane  
HOD: Free State Department of COGTA

Date: 18/01/2024