



provincial treasury

Department:
Provincial Treasury
North West Provincial Government
Republic of South Africa

Second Floor, Garona Building, Mmabatho
Private Bag X2060
MMABATHO 2735
www.treasury.nwpg.gov.za

Enquiries: G. Mogwai

Tel: 018 388 4060

Fax:

Email: gyawa@nwpg.gov.za

FINANCIAL MANAGEMENT SERVICES

Departmental Supply Chain Management

Tel : 018- 388-4060
Fax : 018- 388-1796
Email : gyawa@nwpg.gov.za

Dear Sir / Madam

INVITATION TO BID

NWDF01/2022 - APPOINTMENT OF A PANEL OF PROVINCIAL EXECUTIVE REPRESENTATIVES FOR MUNICIPALITIES IN THE NORTH WEST PROVINCE FOR A PERIOD OF THREE (03) YEARS ON AS AND WHEN REQUIRED BASIS.

You are invited to submit a bid for the service as indicated in the attached bid documents.

1. The conditions contained in the General Conditions of Contract (GCC), and the attached bid forms, as well as any other conditions accompanying this invitation, are applicable.
2. The work procedure, the bidder proposes to follow in order to obtain the required result must be clearly outlined and its terms may not conflict with those contained in the General Conditions of Contract (GCC).
3. All the documents accompanying this invitation to bid must be completed in detail, be sealed in an envelope and be deposited in the tender box before the closing date and time. The tender box is situated at Second Floor, Provincial Treasury, CFO Section, Supply Chain Management, Garona Building, Dr. James Moroka Drive, Mmabatho, 2735.
4. Kindly receive attached the following bid documents:
 - 4.1. Terms of Reference
 - 4.2. Annexure A – Curriculum Vitae (CV) Template
 - 4.3. SBD 1- Invitation to Bid Form
 - 4.4. SBD 4- Declaration of Interest

NWDF01/2022 - APPOINTMENT OF A PANEL OF PROVINCIAL EXECUTIVE REPRESENTATIVES FOR MUNICIPALITIES IN THE NORTH WEST PROVINCE FOR A PERIOD OF THREE (03) YEARS ON AS AND WHEN REQUIRED BASIS.

5. Duly completed and signed original bid documents should be sealed in an envelope marked:

Bid No : **NWDF01/2022**
Bid Description : **APPOINTMENT OF A PANEL OF PROVINCIAL EXECUTIVE REPRESENTATIVES FOR MUNICIPALITIES IN THE NORTH WEST PROVINCE FOR A PERIOD OF THREE (03) YEARS ON AS AND WHEN REQUIRED BASIS.**
Closing Date : **26th AUGUST 2022**
Closing Time : **11H00 AM**

6. **No Compulsory Briefing Session will be held for the above bid and all individuals are required to send all questions to Director: SCM and Chief Director: MFMA as per the contact details below on or before the closing date of bid in order for the Department to respond properly.**
7. Department of Provincial Treasury reserves the right to accept or reject any bid.
8. For more information please contact the following:

Department : **Provincial Treasury**
Contact Person 1 : **Ms. Gaodirelwe Mogwai**
018 388 4060 (SCM Related Issues)
Email address : **gyawa@nwpg.gov.za**

Contact Person 2 : **Ms. Linda Nengovhela**
018 388 2142 (Technical Issues)
Email address : **iramathape@nwpg.gov.za**

9. BID REQUIREMENTS

- a) Late bids will not be considered. Please note that bids are late if they are received at the address given in the bid document after the bid closing date and time.
- b) Bids will be valid for a period of 90 days.

NWDF01/2022 - APPOINTMENT OF A PANEL OF PROVINCIAL EXECUTIVE REPRESENTATIVES FOR MUNICIPALITIES IN THE NORTH WEST PROVINCE FOR A PERIOD OF THREE (03) YEARS ON AS AND WHEN REQUIRED BASIS.

- c) All the relevant forms attached to this bid document must be completed and signed in ink where applicable by a duly authorised official.
- d) **No telegraphic, e- mailed or facsimile bids will be considered.**

10. MANDATORY REQUIREMENTS

1. Individuals must submit the following information, non-submission of one of which will lead to disqualification.
2. All individuals must submit a CV in their capacity as individuals using the prescribed format of Provincial Treasury.
3. All academic qualifications must be supported by copies of actual qualifications / certificates.
4. In respect of all foreign qualifications evidence of endorsement by the South African Qualifications Authority (SAQA) must be provided / submitted with the bid.
5. Proof of CSD registration as an individual with a supplier number.
6. Potential individuals will be required to undergo compulsory screening.
7. All individuals must disclose any criminal / disciplinary case pending against them. **(See attached form).**

NB: SBD 1 & 4 documents must be fully completed and duly signed by the individuals.

- SBD 1 – Invitation to Bid
- SBD 4 - Declaration of Interest

11. EVALUATION CRITERIA AND PROCESSES TO BE USED:

11.1 Phase I: Initial screening process

The process will verify if the required documents as stated on the mandatory requirements have been submitted.

11.2 Phase II: Evaluation Process

Bids will be evaluated in terms of the approved 80/20, (as indicated below) point system in accordance with the Preferential Procurement Regulation 2017. A maximum of 80 points is allocated for price and for B-BBEE status level of contribution 20 Points using the following formula.

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

NWDF01/2022 - APPOINTMENT OF A PANEL OF PROVINCIAL EXECUTIVE REPRESENTATIVES FOR MUNICIPALITIES IN THE NORTH WEST PROVINCE FOR A PERIOD OF THREE (03) YEARS ON AS AND WHEN REQUIRED BASIS.

Where

Ps = Points scored for price of bid under consideration

Pt = Price of bid under consideration

Pmin = Price of lowest acceptable bid

Stage 1: Technical Evaluation Criteria

- Individuals will be evaluated strictly according to the evaluation criteria stipulated in the Terms of Reference.
- Individuals must, as part of their application documents, submit supporting documentation for all technical requirements as indicated hereunder.

Stage 2: Technical assessment and interview session

- Technical assessment and interviews will be used to further verify the individual's knowledge, experience and abilities.

12. STAGE 1 - TECHNICAL EVALUATION CRITERIA

The evaluation committee members will individually evaluate the responses received against the following criteria as set out below.

Technical / functional Requirements	Scoring	Weight allocated	Total Points
Qualification in any of the following fields: <ul style="list-style-type: none"> • Financial Management/ Accounting / Economics • Public Administration • Business Management • Social Science • Law • Political Science 	Post Graduate Degree or equivalent (NQF Level 8 or above)	40	40
	Bachelor's Degree / Advanced Diploma or equivalent (NQF7)	30	

NWDF01/2022 - APPOINTMENT OF A PANEL OF PROVINCIAL EXECUTIVE REPRESENTATIVES FOR MUNICIPALITIES IN THE NORTH WEST PROVINCE FOR A PERIOD OF THREE (03) YEARS ON AS AND WHEN REQUIRED BASIS.

Technical / functional Requirements	Scoring	Weight allocated	Total Points
Demonstrated experience as an Accounting Officer / CEO in a public sector (National, Provincial, local, state owned enterprises)	8 years or more	60	60
	5 - 7 years	40	
Demonstrated experience as a Chief Executive Officer in a Private sector environment	8 years or more	40	
	5 - 7 years	20	
TOTAL POINTS			100

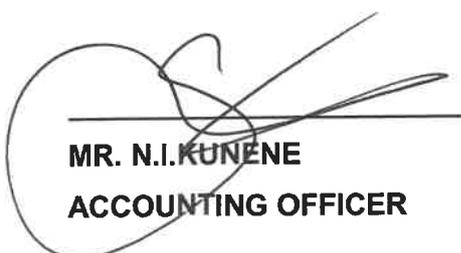
NB: Only individuals who obtain a minimum of 70% threshold out of the 100 points for technical evaluation criteria will be considered for an interview session.

STAGE 2: TECHNICAL ASSESSMENT AND INTERVIEW SESSION FOR INDIVIDUALS WHO HAVE PASSED STAGE 1

- Technical assessment and interviews will be used to further verify the individual's knowledge, experience and abilities.
- Only individuals who **score a minimum 70 out of 100 points** during the interview and technical assessment will qualify.

NB: Only individuals who meet the 70% threshold for both the technical evaluation (stage 1) and interviews session (stage 2) will be considered for inclusion in the panel.

APPROVED / ~~NOT APPROVED~~


MR. N.I. KUNENE
ACCOUNTING OFFICER


DATE

INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF PROVINCIAL TREASURY

BID NUMBER: NWDF01/2022 CLOSING DATE: 26thAUGUST 2022 CLOSING TIME: 11:00 AM

DESCRIPTION: APPOINTMENT OF A PANEL OF PROVINCIAL EXECUTIVE REPRESENTATIVES FOR MUNICIPALITIES IN THE NORTH WEST PROVINCE FOR A PERIOD OF THREE (03) YEARS ON AS AND WHEN REQUIRED BASIS.

The successful bidder will be required to fill in and sign a written Contract Form (SBD 7.2)

BID DOCUMENTS MAY BE DELIVERED AT:

SUPPLY CHAIN MANAGEMENT OFFICE, 2nd FLOOR, GARONA BUILDING, DR. JAMES MOROKA DRIVE, MMABATHO 2735

Bidders should ensure that bids are delivered timeously to the correct address. If the bid is late, it will not be accepted for consideration.

The bid box is generally open 24 hours a day, 7 days a week.

ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS – (NOT TO BE RE-TYPED)

THIS BID IS SUBJECT TO THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT

THE FOLLOWING PARTICULARS MUST BE FURNISHED (FAILURE TO DO SO MAY RESULT IN YOUR BID BEING DISQUALIFIED)

NAME OF BIDDER
POSTAL ADDRESS
STREET ADDRESS
TELEPHONE NUMBER CODE.....NUMBER.....
CELL PHONE NUMBER
FACSIMILE NUMBER CODE NUMBER.....
VAT REGISTRATION NUMBER
HAS A TAX CLEARANCE CERTIFICATE BEEN SUBMITTED (SBD 2)? YES/NO
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS/SERVICES OFFERED BY YOU? YES/NO (IF YES ENCLOSE PROOF)
SIGNATURE OF BIDDER
DATE
CAPACITY UNDER WHICH THIS BID IS SIGNED

APPOINTMENT OF A PANEL OF PROVINCIAL EXECUTIVE REPRESENTATIVES FOR MUNICIPALITIES IN THE NORTH WEST PROVINCE FOR A PERIOD OF THREE (03) YEARS ON AS AND WHEN REQUIRED BASIS

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

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

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

2. Bidder's declaration

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

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

Full Name	Identity Number	Name of State institution

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

2.2.1 If so, furnish particulars:

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

.....
.....

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

2.3.1 If so, furnish particulars:

.....
.....

3 DECLARATION

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

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

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.

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



provincial treasury

Department:
Provincial Treasury
North West Provincial Government
Republic of South Africa

TERMS OF REFERENCE

NWDF01/2022- APPOINTMENT OF A PANEL OF PROVINCIAL EXECUTIVE REPRESENTATIVES FOR MUNICIPALITIES IN THE NORTH WEST PROVINCE FOR A PERIOD OF THREE (03) YEARS ON AS AND WHEN REQUIRED BASIS.

1. BACKGROUND

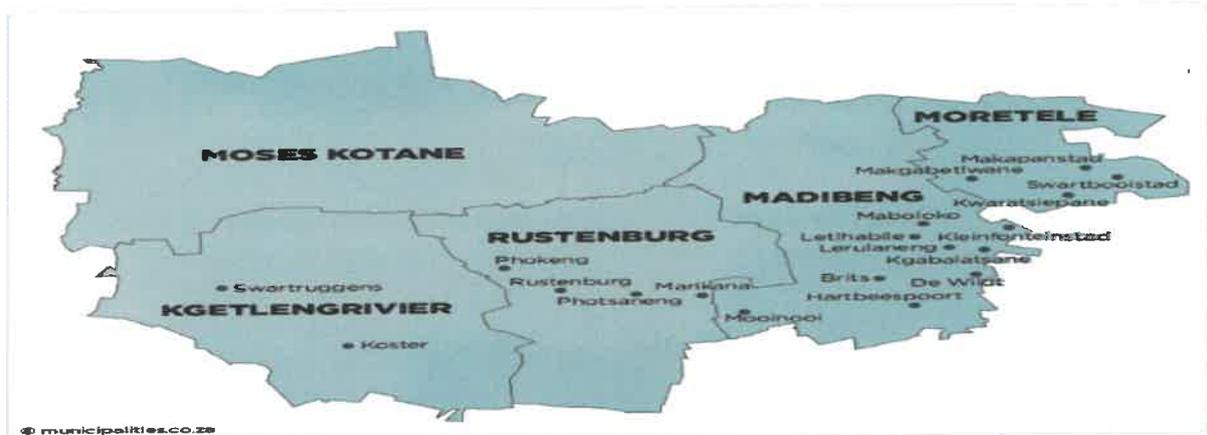
Section 139 (5) (a) and (c) of the Constitution states that;

If a municipality, as a result of a crisis in its financial affairs, is in serious or persistent material breach of its obligations to provide basic services or to meet its financial commitments, the relevant Executive Council:

- a) Must impose a recovery plan aimed at securing the municipality's ability to meet its obligations to provide basic services or its financial commitments which:
 - (i) Is to be prepared in accordance with national legislation
 - (ii) Binds the municipality in the exercise of its legislative and executive authority;
But only to the extent necessary to solve the crisis in its financial affairs.
- b) If the Municipal Council is not dissolved in terms of paragraph, assume responsibility for the implementation of the recovery plan to the extent that the municipality cannot or does not otherwise implement there recovery plan.

Some Municipalities have been placed under Section 139 (5) (a) and (c) of the Constitution by the Provincial Executive Council. It is therefore a Provincial intervention based on a Governance, Institutional, Service Delivery and financial crisis in the municipality. In line with the above provisions of the law, there is a need to appoint the Provincial Executive Representative to assume the responsibility of implementing the recovery plan.

The North West Province has identified twelve (12) financially distressed municipalities. These municipalities are experiencing poor cash flow management, unable to collect revenue, long outstanding creditors as well as underspending on capital grants. The trend in the province for the past five (5) years has seen municipalities adopting unfunded budgets. The continuous adoption of unfunded budgets impact negatively on service delivery.



2. OBJECTIVE

To establish a panel of individuals to serve as Provincial Executive Representatives at municipalities responsible for the performance of the duties entrusted to a Provincial Executive Representative in line with the decision of the Provincial Executive Council to invoke the provisions of section 139(5) (a) and (c) of the Constitution of the Republic of South Africa, read together with section 139 of the MFMA.

3. LEGISLATIVE FRAMEWORK

Section 139(1) (a) of the Municipal Finance Management Act states that;

“If a Municipality, as a result of a crisis in its financial affairs, is in serious or persistent material breach of its obligations to provide basic services or to meet its financial commitments, or admits that it is unable to meet its obligations or financial commitments, the Provincial Executive Council must promptly -

- a) request the Municipal Financial Recovery Service -
 - (i) to determine the reasons for the crisis in its financial affairs;
 - (ii) to assess the municipality's financial state;
 - (iii) to prepare an appropriate recovery plan for the municipality;

(iv) to recommend appropriate changes to the municipality's budget and revenue-raising measures that will give effect to the recovery plan; and

(v) to submit the MEC for finance in the province –

(aa), the determination and assessment referred to in subparagraphs (i) and (ii) above, as a matter of urgency and

(bb) the recovery plan and recommendations referred to in subparagraphs (iii) and (iv) above, within a period, not to exceed 90 days, determined by the MEC for Finance, and

Section 139(5) (a), (b) and (c) of the Constitution states that;

If a municipality, as a result of a crisis in its financial affairs, is in serious or persistent material breach of its obligations to provide basic services or to meet its financial commitments, or admits that it is unable to meet its obligations or financial commitments, the relevant provincial executive must –

(a) Impose a recovery plan aimed at securing the municipality's ability to meet its obligations to provide basic services or its financial commitments, which -

(i) is to be prepared in accordance with national legislation; and

(ii) binds the municipality in the exercise of its legislative and executive authority, but only to the extent necessary to solve the crisis in its financial affairs; and

(b) Dissolve the municipal council, if the municipality cannot or does not approve legislative matters, including a budget or any revenue- raising measures, necessary to give effect to the recovery plan, and

(i) appoint an administrator until a newly elected municipal council has been declared elected; and

(ii) approve a temporary budget or revenue-raising measures or any other measures giving effect to the recovery plan to provide for the continued functioning of the municipality; or

(c) If the Municipal Council is not dissolved in terms of paragraph (b), assume responsibility for the implementation of the recovery plan to the extent that the municipality cannot or does not otherwise implement the recovery plan”.

4. LEGISLATIVE FRAMEWORK

4.1 NATURE AND SUMMARY OF THE INTERVENTION

The Provincial Executive Council has adopted a resolution which communicated that municipalities which are in serious material breach of their obligations to meet their financial commitments as confirmed by the financial health assessment conducted in terms of Section 140(2) (c) of the Municipal Finance Management Act, must be placed under mandatory intervention in terms of the provisions of Section 139 of the Municipal Finance Management Act read together with Section 139(5) of Constitution of the Republic of South Africa.

The above serious material breach of municipal obligations can be attributed to amongst others the following factors:

- a) A widespread lack of financial controls and project monitoring;
- b) Deliberate lack of accountability by the political and administrative municipal leadership;
- c) Accountability was not adequately practised and enforced by leadership and the failure of key controls continued;
- d) Millions were spent to improve the outcomes, but there were no consequences for poor performance;
- e) Deteriorating accountability and financial management coupled with weakened oversight is at the centre of the significant regressions in audit outcomes; and
- f) Systemic breakdown in the discipline of financial controls.

These could be summarised into the following key common factors contributing to problems in municipal finance:

- a) Weak or dysfunctional governance systems and institutions;
- b) Poor leadership - both political and administrative;
- c) Lack of effective monitoring and oversight; and
- d) An obvious disregard for the legal framework knowing that unethical and corrupt behaviour will not be met with any consequences.

The mandatory intervention must also address political, financial management, governance and institutional arrangements as well as service delivery failures to ensure long-term sustainability of the municipality.

4.2 THE ARCHITECTURE OF THE INTERVENTION PLAN

The intervention plan contemplated must differentiate between three distinct phases and must meet minimum standards of section 142 of MFMA Act that states that:

A financial recovery plan must be aimed at securing the municipality's ability to meet its obligations to provide basic services or its financial commitments, and such a plan, whether for a mandatory or discretionary intervention-

(a) must-

- (i) identify the financial problems of the municipality;
- (ii) be designed to place the municipality in a sound and sustainable financial condition as soon as possible;
- (iii) state the principal strategic objectives of the plan, and ways and means for achieving those objectives;
- (iv) set out a specific strategy for addressing the municipality's financial problems, including a strategy for reducing unnecessary expenditure and increasing the collection of revenue, as may be necessary;
- (v) identify the human and financial resources needed to assist in resolving financial problems, and where those resources are proposed to come from;
- (vi) describe the anticipated time frame for financial recovery, and milestones to be achieved; and
- (vii) identify what actions are necessary for the implementation of the plan, distinguishing between actions to be taken by the municipality and actions to be taken by other parties; and

(b) may-

- (i) provide for the liquidation of specific assets, excluding those needed for
- (ii) provide for debt restructuring or debt relief in accordance with Part 3 of
- (iii) provide for special measures to prevent unauthorised, irregular and
- (iv) identify any actual and potential revenue sources.

Phase 1 - A Rescue Phase which will focus primarily on governance, institutional and service delivery issues which can also produce a relatively quick turn-around. A

list of strategic, high-level and useful financial indicators will have to be identified for Phase 1 upon the completion of the status quo report. Indicators for service delivery in Phase 1 should ideally focus on ensuring visible waste management and sanitation service delivery improvements i.e., refuse removal in formal and informal areas, sewer spillages, curbing water losses, fixing of streetlights and road maintenance with particular emphasis on potholes also requires priority attention. However, as resources become available through better cash management, the collection of outstanding debt and the prioritisation of expenditure, service delivery issues can be addressed more comprehensively to secure the revenue base.

Phase 2 - Stabilisation Phase In this phase, a strong focus on cash, finances and financial management is still maintained, but greater attention is placed on the underlying service delivery, governance and institutional matters perpetuating the financial crisis in the municipality, such as the design of a fit for purpose organogram, plans to address the repairs and maintenance and renewal of infrastructure for the water and electricity network through which the municipality loses significant revenues, ensuring that the property valuation roll is updated and that all customers are billed accordingly and other similar measures.

Phase 3 – Sustainability Phase will focus on ensuring the long-term sustainability of the municipality. In this phase, much of the work done in Phases 1 and 2 will need to be institutionalised.

5. LEGISLATIVE FRAMEWORK

The most critical function of the Provincial Executive Representative (PER) is to ensure that a recovery plan is implemented and that the municipality is able to recover. The PER will focus on the following three (3) key areas:

5.1 STRATEGIC LEADERSHIP AND GUIDANCE

- i. Issue directives and instructions to the accounting officer and relevant staff to implement a recovery plan;
- ii. Introduce/implement necessary corrective and control measures including, but not limited to, control over the municipal bank accounts;
- iii. Must be a compulsory signatory to the primary municipal bank account for monitoring and control purposes;
- iv. Provide concurrence on any decision making report processed by the accounting officer to any delegated authority (incl. Council/Mayor/EM);

- v. Develop/implement adequate governance systems, processes and procedures, strategies and plans to give effect to implementation of a recovery plan;
- vi. Review/reallocate resources and responsibilities to staff in consultation with the accounting officer;
- vii. Facilitate recruitment and selection process to appoint staff including senior managers in the municipality;
- viii. Develop HR capacity to a level where the municipality is able to exercise its functions in an economic, transparent, effective, efficient, and accountable manner;
- ix. Oversee the timeous implementation of consequence management.

5.2 REPORTING RESPONSIBILITIES

- i. Must account to the MEC for Finance for the duration of the intervention;
- ii. Conduct quality assurance processes and submit monthly progress reports to MEC for Finance/Provincial EXCO/Municipal Council;
- iii. Provide assurance to MEC for Finance, through periodic reports, that decisions of the Council/Executive Mayor /Mayor are consistent with the recovery plan;
- iv. Maintain a record of decisions on the implementation of the recovery plan.

5.3 INTERNAL/EXTERNAL STAKEHOLDER RESPONSIBILITIES

- i. Work closely with the National Treasury MFRS unit and other stakeholders to implement the municipal recovery plan;
- ii. Facilitate a healthy interface and ensure cohesion between the political and administrative components of the municipality;
- iii. Attend meetings of Council, Mayoral Committee and top management;
- iv. Facilitate meaningful public participation and stakeholder engagement.

6. TIMING OF ASSIGNMENT

All work is to be carried out in accordance with the intervention process plan and the Financial Recovery Plan (FRP) within stipulated timeframes.

The Provincial Executive Representative must be fully available and engaged for the duration of the project once deployed or assigned at a particular municipality i.e. Once deployed/assigned, the PER must not take any assignment other than the assigned engagement.

6. PERFORMANCE INDICATORS

The performance indicators will be aligned with the determined intervention objectives and will be closely monitored by Provincial Treasury in line with the service level agreement.

7. OVERSIGHT AND PROGRESS REPORTING

The intervention will be subject to oversight by a Political Oversight and Monitoring Committee which will report directly to the MEC of Finance.

The Political Oversight and Monitoring Committee will provide oversight on the intervention, monitor progress, and unblock any political challenges that may hinder the success of this intervention.

To support the Political Oversight and Monitoring Committee, a multi-disciplinary technical task team will be established.

8. PRICING AND PAYMENT TERMS

Provincial Treasury will pay for official travelling, subsistence and accommodation costs of the Provincial Executive Representatives incurred during the performance of their duties in terms of this intervention project in line with PFMA SCM Instruction No 7 of 2022 – 2023 Cost Containment Measures related to travel and subsistence.

Provincial Treasury further undertakes to pay out in full, within thirty (30) days, all valid claims for work done to its satisfaction upon submission of a substantiated claim.

Payment will be effected monthly, subject to submission of a valid claim with the relevant supporting documents.

9. EVALUATION CRITERIA

Phase I: Initial screening process

- The process will verify if the required documents as stated on the mandatory requirements have been submitted.

Phase II: Evaluation Process

- Bids will be evaluated in terms of the approved 80/20, (as indicated below) point system in accordance with the Preferential Procurement Regulation 2017.
- A maximum of 80 points is allocated for price and for B-BBEE status level of contribution 20 Points using the following formula.

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

Where

- P_s = Points scored for price of bid under consideration
 P_t = Price of bid under consideration
 P_{\min} = Price of lowest acceptable bid

Stage 1: Technical Evaluation Criteria for CVs

- Individuals will be evaluated strictly according to the evaluation criteria stipulated in the Terms of Reference.
- Individuals must, as part of their application documents, submit supporting documentation for all technical requirements as indicated hereunder.

Stage 2: Technical assessment and interview session

- Technical assessment and interviews will be used to further verify the individual's knowledge, experience and abilities.

10. MANDATORY REQUIREMENTS

Individuals must submit the following information, non-submission of one of which will lead to disqualification:

- 10.1 All individuals must submit a CV in their capacity as individuals using the prescribed format of Provincial Treasury.
- 10.2 All academic qualifications must be supported by copies of actual qualifications / certificates.

10.3 In respect of all foreign qualifications evidence of endorsement by the South African Qualifications Authority (SAQA) must be provided/ submitted with the bid.

10.4 Proof of CSD registration as an individual with a supplier number.

10.5 Potential individuals will be required to undergo compulsory screening.

10.6 All individuals must disclose any criminal / disciplinary case pending against them
(See attached form).

NB: SBD 4 documents must be fully completed and duly signed by the individuals.

SBD 4 - Declaration of Interest

Stage 1: Technical Evaluation Criteria for CVs

All individuals must submit a CV together with copies of academic qualifications and SAQA accreditation in respect of foreign qualifications.

Technical / functional Requirements	Scoring	Weight allocated	Total Points
Qualification in any of the following fields: <ul style="list-style-type: none"> • Financial Management/ Accounting / Economics • Public Administration • Business Management • Social Science • Law • Political Science 	Post Graduate Degree or equivalent (NQF Level 8 or above)	40	40
	Bachelor's Degree / Advanced Diploma or equivalent (NQF7)	30	
Demonstrated experience as an Accounting Officer / CEO in a public sector (National, Provincial, local, state owned enterprises)	8 years or more	60	60
	5 - 7 years	40	
Demonstrated experience as a Chief Executive Officer in a Private sector environment	8 years or more	40	
	5 - 7 years	20	
TOTAL POINTS			100

NB: Only individuals who obtain a minimum of 70% threshold out of the 100 points for technical evaluation criteria will be considered for an interview session.

Stage 2: Technical assessment and interview session for individuals who have passed stage 1

- i. Technical assessment and interviews will be used to further verify the individual's knowledge, experience and abilities.
- ii. Only individuals who **score a minimum 70 out of 100 points** during the interview and technical assessment will qualify for inclusion on the panel.

11. BIDS VALIDITY PERIOD

Bids will be valid for a period of ninety (90) days.

12. DURATION OF CONTRACT

- i. The duration of this tender will be for a period of three (3) years from the date of appointment and successful individuals will be required to sign SBD 7.2 contract form.
- ii. Upon appointment in the panel, individuals will be required to enter into a Memorandum of Agreement.
- iii. Upon placement in a municipality individuals will be required to enter into a Service Level Agreement.

13. CONDITIONS OF BID

- i. Late applications/ bids will not be considered. Please note that the applications/ bids are late if they are received at the address given in the bid document after the bid closing date and time.
- ii. Where applicable, all the relevant forms attached to this bid document must be completed and signed in ink by the applicant.
- iii. Successful individuals must be in a position to commence work within five (5) calendar days of the awarding of an assignment contract.
- iv. General Conditions of Contract (GCC) are also applicable to this tender.
- v. Misrepresentation of facts and criminal records will render your bid unsuccessful.

14. ALLOCATION OF WORK

- 14.1.1 Successful inclusion on the panel does not guarantee allocation of work.
- 14.1.2 Once placed on the panel individuals all individuals will be requested to provide quotations based on the recovery plan and the stipulated duration of the assignment.
- 14.1.3 Quotations will be evaluated in terms of the approved 80/20, (as indicated below) point system in accordance with the Preferential Procurement Regulation 2017.
- 14.1.4 Once assigned to a specific municipality / project individual's will not be requested / allowed to quote for another assignment whilst still engaged on an active project.

15. CANCELLATION

- i. Provincial Treasury reserves the right to cancel the contract if the Provincial Executive Representative fails to adhere to the conditions of the contract.
- ii. On termination of the contract for whatever reason, the individual shall on demand deliver, without the right to retention, all documents and information gained in terms of this agreement.

16. ENQUIRIES

For more information please contact the following:

Contact Person 1 : Ms. Gaodirelwe Mogwai (**SCM Related Issues**)

Director: Supply Chain Management

Tel: 018 388 4060

Email: gyawa@nwpg.gov.za

Contact Person 2 : Ms. Linda Nengovhela (**Technical Issues**)

Chief Director: MFMA Support

Tel: 018 388 - 5063

Email: lramatlhape@nwpg.gov.za

SUBMITTED BY:



MR. O. MDLULI
CHAIRPERSON: BID SPECIFICATION

10/08/2022

DATE

APPROVED / ~~NOT APPROVED~~



MR. N.I. KUNENE
HEAD OF DEPARTMENT



DATE



provincial treasury

Department:
Provincial Treasury
North West Provincial Government
Republic of South Africa

Private Bag X2060, Mmabatho, 2735, Republic of South Africa,
Tel: (018) 388 4060

**NWDF01/2022- APPOINTMENT OF A
PANEL OF PROVINCIAL EXECUTIVE
REPRESENTATIVES FOR MUNICIPALITIES
IN THE NORTH WEST PROVINCE FOR A
PERIOD OF THREE (03) YEARS ON AS
AND WHEN REQUIRED BASIS**

PRESCRIBED CURRICULUM VITAE (CV) TEMPLATE

1.1 PERSONAL DETAILS

CSD NUMBER	
Personal Information:	Surname
	First Names
	Identity / Passport Number
	Tax Number
	Date of birth
	Gender
	Nationality
Contact Details:	Telephone number (land line)
	Cell Number
	Email Address
	Physical Address

1.2 QUALIFICATIONS

QUALIFICATION	
NAME OF THE INSTITUTION	
DATE	
QUALIFICATION	

NAME OF THE INSTITUTION	
DATE	
QUALIFICATION	
NAME OF THE INSTITUTION	
DATE	
QUALIFICATION	
NAME OF THE INSTITUTION	
DATE	
QUALIFICATION	
NAME OF THE INSTITUTION	
DATE	

1.3 YEARS OF EXPERIENCE

Years' experience	<Please state the organisation, positions held, start and end date (MM/YY) and total number of years and months>				
	Position held	Employer/ Organisation	Start date (MM/YY)	End date (MM/YY)	Total period (e.g. 3Y_6M)

1.4 TYPE OF EXPERIENCE

Demonstrated experience as an Accounting Officer / CEO in a public sector (National, Provincial, local, state owned enterprises)	

Demonstrated experience as a Chief Executive Officer in a Private sector environment	

1.5 LIST OF REFERENCES

DATE FROM TO	NAME OF EMPLOYER	
	POSITION	
	EMPLOYER REFERENCE AND CONTACT	
DATE FROM TO	NAME OF EMPLOYER	
	POSITION	
	EMPLOYER REFERENCE AND CONTACT	
	MAIN RESPONSIBILITIES	

DATE FROM TO	NAME OF EMPLOYER	
	POSITION	
	EMPLOYER REFERENCE AND CONTACT	
	MAIN RESPONSIBILITIES	



provincial treasury

Department:
Provincial Treasury
North West Provincial Government
Republic of South Africa

Second Floor, Garona Building, Mmabatho
Private Bag X2060
MMABATHO 2735
www.treasury.nwpg.gov.za

SUPPLY CHAIN MANAGEMENT

Enquiries: G. Mogwai
Tel: 018 388 4060
Fax: 018 388 1794
Email: gyawa@nwpg.gov.za

CONFIDENTIAL

INDIVIDUAL DECLARATION FORM

**NWDF01/2022 - APPOINTMENT OF A PANEL OF PROVINCIAL EXECUTIVE
REPRESENTATIVES FOR MUNICIPALITIES IN THE NORTH WEST PROVINCE FOR
PERIOD OF THREE (03) YEARS**

You need to fill in all sections of this form completely, accurately and legibly. This will help to process your application fairly

PERSONAL INFORMATION	
Surname	
Full names	
Date of birth	
Identity number	
Race	
Gender	
Are you a South African citizen	
If no, what is your nationality?	
Do you have a work permit	
Have you been convicted or found guilty of a criminal case?	
If yes, provide details	
Do you have any pending criminal case against you?	

If yes, provide details	
Have you resigned from a job pending any disciplinary proceeding against you?	
If yes, provide details	
Have you been discharged or retired from the Public Service on grounds of ill-health or on condition that you cannot be re-employed?	
Are you conducting business with state or are you a Director of a Public or Private company conducting business with State? If yes, provide details	
In the event that you are contracted in this bid, will you immediately relinquish such business interests?	

Signed: _____

Dated: _____



THE NATIONAL TREASURY

Republic of South Africa



**GOVERNMENT PROCUREMENT:
GENERAL CONDITIONS OF CONTRACT**

July 2010

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 market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the

RSA.

- 1.12 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 1.13 "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.14 "GCC" means the General Conditions of Contract.
- 1.15 "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16 "Imported content" means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- 1.17 "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18 "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 "Project site," where applicable, means the place indicated in bidding documents.
- 1.21 "Purchaser" means the organization purchasing the goods.
- 1.22 "Republic" means the Republic of South Africa.
- 1.23 "SCC" means the Special Conditions of Contract.
- 1.24 "Services" means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such

obligations of the supplier covered under the contract.

- 1.25 “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.
- 2. Application**
- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.
- 3. General**
- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za
- 4. Standards**
- 4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.
- 5. Use of contract documents and information; inspection.**
- 5.1 The supplier shall not, without the purchaser’s prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The supplier shall not, without the purchaser’s prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier’s performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier’s records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.
- 6. Patent rights**
- 6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.

7. Performance security

- 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.
- 7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:
- (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
 - (b) a cashier's or certified cheque
- 7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.

8. Inspections, tests and analyses

- 8.1 All pre-bidding testing will be for the account of the bidder.
- 8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or 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 (NIP) Programme** 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.
- 34 Prohibition of Restrictive practices** 34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
- 34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

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

Js General Conditions of Contract (revised July 2010)