



human settlements
Department of Human Settlements
FREE STATE PROVINCE

Enquiries:
Cell:
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S Ntsanwisi
051 403 3649
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RFQ DOCUMENT

PROCUREMENT OF INVESTIGATION AND ADVISORY SERVICES REGARDING MATERIAL IRREGULARITIES

QUOTE NUMBER : HS-Q128
CLOSING DATE : 18 OCTOBER 2024
TIME : 10:00
VALIDITY PERIOD : 90 DAYS

NB: All documents must be completed with original black ink

All bidders must indicate their CSD Registration number: _____



RFQ ADVERT DATE:	11 OCTOBER 2024
RFQ NUMBER	HS-Q128
TITLE OF RFQ	PROCUREMENT OF INVESTIGATION AND ADVISORY SERVICES REGARDING MATERIAL IRREGULARITIES
EMPLOYER	FREE STATE HUMAN SETTLEMENTS (FSHS)
POSTAL ADDRESS	P.O BOX 247
TOWN/CITY	BLOEMFONTEIN
CODE	9300
PHYSICAL ADDRESS1	OR TAMBO BUILDING,
PHYSICAL ADDRESS2	7 TH FLOOR
PHYSICAL ADDRESS3	CNR ST ANDREW AND MARKGRAAFF STREETS
PHYSICAL ADDRESS4	9301
E-MAIL:	shalati@fshs.gov.za
CLOSURE DATE	18 OCTOBER 2024
CLOSURE TIME(CAT)	10H00
TENDER BOX LOCATION	NB: QUOTATIONS MUST BE HAND DELIVERED AT THE FREE STATE DEPARTMENT OF HUMAN SETTLEMENTS, TENDER BOX GROUND FLOOR, OR TAMBO BUILDING, CNR MAKRAAFF AND ST ANDREWS STREET. E-MAILED QUOTATIONS WILL NOT BE CONSIDERED
SCM ENQUIRIES CONTACT PERSON	SHALATI NTSANWISI: shalati@fshs.gov.za



SECTION A:
SBD 1
INVITATION OF BID



PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)					
BID NUMBER:	HS-Q 128	CLOSING DATE:	18 October 2024	CLOSING TIME:	10h00
DESCRIPTION	PROCUREMENT OF INVESTIGATION AND ADVISORY SERVICES REGARDING MATERIAL IRREGULARITIES				
BID RESPONSE DOCUMENTS MAY BE SENT VIA EMAIL TO:					
QUOTATION BOX ON THE GROUND FLOOR, OR TAMBO BUILDING, CNR MARKGRAAFF AND ST ANDREWS STREET, BLOEMFONTEIN, 9301					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Shalati Ntsanwisi		CONTACT PERSON	John Matlakala	
TELEPHONE NUMBER			TELEPHONE NUMBER		
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	shalati@fshs.gov.za		E-MAIL ADDRESS	john@fshs.gov.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE A BRANCH IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.					

Private Bag 247, Bloemfontein, 9301

OR Tambo House, 7th Floor, cnr St Andrew and Markgraaff Streets, Bloemfontein, 9301



PART B TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.**
- 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).**

2. TAX COMPLIANCE REQUIREMENTS

- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR TAX COMPLIANCE STATUS PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
- 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
- 2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

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

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:
(Proof of authority must be submitted e.g. company resolution)

DATE:



SBD 3.3 PRICING SCHEDULE **(PROFESSIONAL SERVICES)**



PRICING SCHEDULE
(Professional Services)

NAME OF BIDDER: BID NO.: ...HS Q128.....

CLOSING TIME 10:00

CLOSING DATE: 18 OCTOBER 2024

OFFER TO BE VALID FORDAYS FROM THE CLOSING DATE OF BID.

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY **(ALL APPLICABLE TAXES INCLUDED)
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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-----	-----
-----	R-----	-----
5. PHASES ACCORDING TO WHICH THE PROJECT WILL BE COMPLETED, COST PER PHASE AND MAN-DAYS TO BE SPENT

-----	R-----	-----days
-----	R-----	-----days
-----	R-----	-----days
-----	R-----	-----days



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

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
-----	-----	-----	R-----
-----	-----	-----	R-----
-----	-----	-----	R-----
-----	-----	-----	R-----
-----	-----	-----	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, eg. Three star hotel, bed and breakfast, telephone cost, reproduction cost, etc.). On basis of these particulars, certified invoices will be checked for correctness. Proof of the expenses must accompany invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
-----	-----	-----	R-----
-----	-----	-----	R-----
-----	-----	-----	R-----
-----	-----	-----	R-----
-----	-----	-----	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.
-
-
-
-



human settlements
Department of Human Settlements
FREE STATE PROVINCE

SBD 4
BIDDERS DISCLOSURE

Private Bag 247, Bloemfontein, 9301

OR Tambo House, 7th Floor, cnr St Andrew and Markgraaff Streets, Bloemfontein, 9301

www.fs.gov.za



BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

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

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

2. BIDDER'S DECLARATION

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

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

Full Name	Identity Number	Name of State institution

- 2.2. Do you, or any person connected with the bidder, have a relationship 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**

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.



2.3.1 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 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.
- 3.5 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.
- 3.6 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 3.7. 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



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) The 80/20 preference point system will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and
- (b) Specific Goals.

1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

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



- 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

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

Where

P_s = Points scored for price of tender under consideration

P_t = Price of tender under consideration

P_{min} = 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 or 90 points is allocated for price on the following basis:

80/20

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

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

4. POINTS AWARDED FOR SPECIFIC GOALS

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

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.



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

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

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

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)	Supporting documents to be attached as a proof of points claimed
Women Ownership - $\geq 51\%$	10		<p>(a) A sworn affidavit by the person or person acting on behalf of an enterprise indicating the level of ownership in the enterprise by persons historically disadvantaged by unfair discrimination on the basis of race; or</p> <p>(b) Ownership Certificate issued by the Companies and Intellectual Property Commission (CIPC)</p>
Youth Ownership - $\geq 51\%$	10		<p>(a) A sworn affidavit by the person or person acting on behalf of an enterprise indicating the level of ownership in the enterprise by persons historically disadvantaged by unfair discrimination on the basis of race; or</p> <p>(b) Ownership Certificate issued by the Companies and Intellectual Property Commission (CIPC)</p>



DECLARATION WITH REGARD TO COMPANY/FIRM

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

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/firm for the preference(s) shown and I acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –

(a) disqualify the person from the tendering process;



- (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
- (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
- (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
- (e) forward the matter for criminal prosecution, if deemed necessary.

.....
SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME:

DATE:

ADDRESS:

.....

.....

.....

.....

SECTION B



TERMS OF REFERENCE

1. INTRODUCTION

The Free State Department of Human Settlements seeks to procure the services of a reputable individuals, company/firm or institution to conduct a comprehensive investigation into alleged Material Irregularities identified by the Auditor-General South Africa (AGSA). The selected persons, firms, company or institution will be required to provide recommendations for financial recovery measures in line with the department's compliance obligations.

2. BACKGROUND

The office of the Auditor-General South Africa promulgated the amendments of the Public Audit Act No.25 of 2004 which mandated the AGSA to report on the Material Irregularities identified during the audit cycles effective from 1 April 2019. Material Irregularity as defined by AGSA refers to any non-compliance with, or contravention of, legislation, fraud, theft or a breach of a fiduciary duty identified during an audit performed under this Act that resulted in



or is likely to result in a material financial loss, the misuse or loss of a material public resource or substantial harm to a public sector institution or the public.

AGSA during 2021-22 financial year issued notifications regarding Material Irregularities related to payments not in accordance with contract terms for several projects, including:

- Completion of Community Residential Units for Dark and Silver City (Top site) in Bloemfontein: Payment for COVID-19 standing time and delays due to strikes.
- Completion of Community Residential Units for Dark and Silver City (Bottom site) in Bloemfontein: Payment for COVID-19 standing time and delays due to strikes.
- Completion of Community Residential Units for Block G Thabong in Welkom: Payment for delays due to strikes.

As outlined in the AGSA's letter dated 16 November 2023, the department is required to provide evidence of disciplinary actions, recovery of financial losses, and other steps taken to address these material irregularities.

3. SCOPE OF WORK

The appointed individuals, firms, company or institution will be responsible for:

3.1 Investigating Material Irregularities

- Conducting a detailed investigation into each material irregularity process as identified by AGSA to determine whether the alleged Mi meets the definition
- Reviewing relevant documentation, including contracts, payment records, and communication between the department and contractors as well as any other relevant documentation.
- Identifying where applicable / possible any non-compliance with the JBCC agreements, construction law, or other applicable legal frameworks.

3.2 Advising on Legal and Contractual Remedies

- Providing expert advice on potential legal and contractual remedies available to the department for recovery of financial losses where possible.



- Recommending the initiation if any, necessary legal proceedings, including civil or criminal actions where applicable.

3.3 Reporting and Documentation

- Preparing a detailed report summarizing the findings of the investigation on whether the three identified MI are indeed MIs, including evidence of any wrongdoing, potential liabilities, and recommendations for corrective actions.
- Providing substantiating documentation to support findings and recommendations in compliance with AGSA requirements.

4. DELIVERABLES

The successful persons, firms, company or institution must deliver the following:

- 4.1 Determination:** Determine whether the alleged MIs meet the requirements and the definition of MIs
- 4.2 Investigation Report:** A comprehensive report detailing the findings of the investigation, identifying responsible parties, and specifying any breaches of contract or law.
- 4.3 Recommendations for Recovery:** A set of actionable recommendations for financial recovery and other remedial actions where applicable.
- 4.4 Supporting Documentation:** All relevant documents substantiating the investigation's findings and recommendations.

5. QUALIFICATIONS AND EXPERIENCE

Interested persons, firms, companies or institutions must submit the following:

- 5.1 Knowledge of prescripts governing the Public Finance Management Act**
 - In-depth knowledge and experience of relevant prescripts of the PFMA with regards to the determination, investigation, handling and finalisation of MIs
- 5.2 Expertise in Agreements and Construction Law**



- In-depth knowledge and experience in the JBCC Principal Building Agreement, Nominated/Selected Subcontract Agreement, and Minor Works Agreement.
- A solid understanding of construction law as it pertains to the management of delays, force majeure, and other contractual matters.

5.3 Prior Advisory Experience with JBCC

- A proven track record of providing advisory services to entities engaged with JBCC agreements.

5.4 Legal and Financial Recovery Experience

- Demonstrable experience in advising on financial recovery and contract management in the construction industry, particularly within a public sector context.

6. SUBMISSION REQUIREMENTS

Interested persons, firms, companies or institutions must submit the following:

- 6.1 **Proposal:** A detailed proposal outlining the methodology for the investigation, approach to financial recovery where determined, and a work plan with timelines.
- 6.2 **Company Profile:** Information on the individual, firm, company or institution, including relevant experience and expertise in JBCC agreements and construction law.
- 6.3 **References:** Contact details of at least three references for whom similar work has been conducted.

7. VERIFICATION OF DOCUMENTS

It is advisable for the respondents to verify their page numbering to ensure that there are no missing pages. No liability will be accepted by the department in regard to anything arising on the issue of missing pages.

8. EVALUATION CRITERIA

PHASE I: Administrative Compliance

During this phase service provider's response will be evaluated based on the mandatory and non-mandatory requirements indicated hereunder. The phase is not scored and



service providers who do not submit acceptable proposals, by failing to comply with all the mandatory criteria and conditions will be disqualified.

(i) Mandatory Requirements

- a) A copy of SARS Tax Pin certificate;
- b) Company registration documents;
- c) Copy of CSD report.
- d) Copy of accredited B-BBEE Certificate, original sworn affidavit or original B-BBEE certificate issued by the Department of Trade and Industry of RSA;
- e) Signed Joint Venture agreement in case of a Joint Venture.
- f) Joint Venture and SANAS approved BBEE certificate in case of a Joint Venture.
- g) All SBD forms to be completed and signed accordingly.
- h) The tenderer or any of its directors are not listed on the Register of Tenderer Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004.

(ii) Tax Compliance Status

It is a condition of this bid that the tax matters of the successful service provider be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the service provider's tax obligations at the point of awarding.

(iii) Consortia/Joint Ventures/Sub-contractors

Where Consortia/Joint Ventures/Sub-contractors are involved, each party must be registered on the Central Supplier Database and their tax compliance status will be verified through the Central Supplier Database.

In bids where consortia/joint ventures / sub-contractors are involved; each party must submit a separate TCS certificate/pin/CSD number.

9. FUNCTIONALITY EVALUATION CRITERIA

NO.	Criteria for functionality	Criterion Description	Weight
1	Experience and Competencies (35 Points)	- Construction Law and Contract Management (15 Points): At least 3 years of demonstrable experience handling construction law contract matters, with specific reference to JBCC agreements and public sector compliance. 3+ Years Experience: 15 Points	35



		<p>2-3 Years Experience: 10 Points 1-2 Years Experience: 5 Points Less than 1 Year Experience: 0 Points</p> <p>- Public Sector Experience (10 Points): Relevant working experience in the public sector, specifically in the context of financial recovery and contract management.</p> <p>5+ Years Experience: 10 Points 3-4 Years Experience: 7 Points 1-2 Years Experience: 4 Points Less than 1 Year Experience: 0 Points</p> <p>- Knowledge of Regulatory Framework (10 Points): Demonstrable knowledge of the AGSA, PFMA, Treasury Regulations, and Public Service Regulations, particularly in relation to irregular expenditure investigations.</p> <p>Expert Knowledge with Evidence: 10 Points Advanced Knowledge with Some Evidence: 7 Points Basic Knowledge with Minimal Evidence: 4 Points No Demonstrable Knowledge: 0 Points</p>	
2	Methodology and Approach (30 Points)	<p>- Detailed Methodology (15 Points): A clear, concise methodology outlining how each aspect of the investigation will be conducted, including specific approaches to data analysis, identification of material irregularities, and legal/financial recovery strategies.</p> <p>Comprehensive and Tailored Approach: 15 Points General Approach with Some Tailoring: 10 Points Basic Approach with Limited Detail: 5 Points Inadequate or Generic Approach: 0 Points</p> <p>- Project Plan (15 Points): A well-structured project plan with specific timelines, milestones, and deliverables related to the investigation.</p>	30



		<p>Highly Detailed and Realistic: 15 Points</p> <p>Moderately Detailed with Minor Gaps: 10 Points</p> <p>General Plan with Several Gaps: 5 Points</p> <p>No Plan or Inadequate Detail: 0 Points</p>	
3	Technical and Legal Expertise (25 Points)	<p>- Legal Expertise (15 Points): Proven legal expertise in construction law, focusing on handling contract disputes, financial recovery, and compliance with public sector regulations.</p> <p>Highly Experienced Team: 15 Points</p> <p>Moderately Experienced Team: 10 Points</p> <p>Basic Experience: 5 Points</p> <p>No Relevant Experience: 0 Points</p> <p>- Technical Expertise (10 Points): Expertise in handling technical aspects of construction projects, especially in the context of public sector projects and JBCC agreements.</p> <p>Highly Experienced: 10 Points</p> <p>Moderate Experience: 7 Points</p> <p>Basic Experience: 3 Points</p> <p>No Relevant Experience: 0 Points</p>	25
4	Past Performance and Client References (10 Points)	<p>- Relevant Client References (10 Points): Submission of at least three signed references from previous clients related to similar projects.</p> <p>Three References: 10 Points</p> <p>Two References: 7 Points</p> <p>One Reference: 4 Points</p> <p>No Relevant References: 0 Points</p>	10

10. CONTRACTUAL OBLIGATIONS

The appointed company or institution will enter into a formal contract with the Free State Department of Human Settlements. The contract will include clauses related to confidentiality, intellectual property rights, conflict of interest, and other relevant terms and conditions.



11. SUBMISSION DEADLINE

Proposals should be submitted at **O.R Tambo Building** (in the tender box) situated on Ground floor at the address mentioned below. It is the responsibility of the prospective supplier to ensure that the bid document is deposited in the tender box before **10H00 on 18 October 2024**.

No late submission will be accepted.

Address for Submission:

O R Tambo House,
Cnr Markgraaff and St Andrews,
Bloemfontein,
9300

If a courier service company is being used for delivery of the proposal document, the bid description must be endorsed on the delivery note/courier packaging to ensure that documents are delivered to the tender box, as mentioned above.

The Department will not be held liable for loss of documents by courier services.

12. OFFICIALS PROHIBITED FROM SUBMITTING BIDS

In accordance with Treasury Instruction Note 17 of 2012, an employee of the Government or a public entity may not have a business interest in any entity conducting business with the Provincial Government.

13. TERMINATION RIGHTS

An agreement can be terminated by a participant on grounds of poor service delivery or any other breach by the bidder.

Department of Human Settlements will be in a position to terminate an agreement without honoring the outstanding months where after following the prescribed remedial process stipulated in the agreement and agreement between the bidder and the Department of



Human Settlements; it is proven that the bidder failed to remedy the poor provision of service.

14. AGREEMENTS

The Service Provider(s) will be expected to sign a framework agreement with the Free State Human Settlement. The Service Level Agreement will be subject to the bid documents, including the General Conditions of Contract (GCC) and Special Conditions of Contract (SCC).

15. SETTLEMENT OF DISPUTES

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

16. 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, may 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.

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

Conditions of the Contract.

SIGNATURE

CAPACITY



human settlements
Department of Human Settlements
FREE STATE PROVINCE

Contact person of company: _____

Tel. of company: (____)_____ Fax of company: (____)_____