

## INVITATION TO BID

**NORTHERN CAPE PROVINCIAL GOVERNMENT  
DEPARTMENT OF TRANSPORT SAFETY & LIAISON**

Re-Advertising: BID NUMBER: NCDTSL 01/2022 CLOSING DATE: 20 September 2022

CLOSING TIME: 11:00  
VALIDITY PERIOD 120 DAYS

RE-ADVERTISING: REQUEST FOR PROPOSAL FOR APPOINTMENT OF A TRANSACTIONAL ADVISOR SERVICES TO CONDUCT ASSESSMENT FEASIBILITY STUDY AND IMPLEMENTATION OF THE MANAGEMENT AND CONSTRUCTION OF WEIGHBRIDGES IN THE NORTHERN CAPE PROVINCE

**The successful bidder will be required to fill in and sign a written Contract Form (NCP 7).**

BID DOCUMENTS MAY BE POSTED TO

Envelope must be clearly marked: Request for proposal for appointment of a transactional advisor services to conduct assessment and feasibility study and implementation of the management and construction of weighbridges in the Northern Cape Province

The Manager

Supply Chain Management

Department of Transport Safety & Liaison

PO Box 168

Kimberley

8300

OR

Hand delivered to:

Department of Transport Safety & Liaison, Ocean Echo Building, 02 Cnr Sidney & Lennox Street, Kimberley

BULKY DOCUMENTS MUST BE DELIVERED TO REGISTRY, 2<sup>ND</sup> FLOOR, ROOM 14, OCEAN ECHO BUILDING

**Bidders must ensure that bids are delivered in time 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 BID DOCUMENTS – (NOT TO BE RE-TYPED)

THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2011, 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.....
CELLPHONE NUMBER	.....
FACSIMILE NUMBER	CODE.....NUMBER.....
E-MAIL ADDRESS	.....
VAT REGISTRATION NUMBER	.....

HAS AN ORIGINAL AND VALID TAX CLEARANCE CERTIFICATE BEEN SUBMITTED? (NCP 2)

YES or NO

HAS A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE BEEN SUBMITTED? (NCP 6.1)

YES or NO

HAS THE BIDDER REGISTER ON THE CENTRAL SUPPLIERS DATABASE YES or NO  
IF YES, WHO WAS THE CERTIFICATE ISSUED BY?

AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)..... ..

A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS); OR..... ..

A REGISTERED AUDITOR .....

[TICK APPLICABLE BOX]

**(AN ORIGINAL OR CERTIFIED COPY OF YOUR B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE 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?

☒ YES or ☐ NO

IF YES ENCLOSE PROOF – CERTIFIED COPY REQUIRED

IS THE BIDDER REGISTERED ON THE CENTRAL SUPPLIERS DATABASE YES or NO

IF YES, PROVIDE CSD REGISTRATION NUMBER: .....

SIGNATURE OF BIDDER .....

DATE .....

CAPACITY UNDER WHICH THIS BID IS SIGNED .....

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**ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE & SPECIFICATIONS MAY BE DIRECTED TO:**

**Department:** Department of Transport Safety & Liaison

**Contact Person:** Adelaide Montwedi / Masego Ncube

**Tel:** 053 839 1700 Ext. 731/808

**E-mail address:** [amontwedi@ncpg.gov.za](mailto:amontwedi@ncpg.gov.za) / [mrattle@ncpg.gov.za](mailto:mrattle@ncpg.gov.za)

**Project Manager:** Mr Lesego Wolfe [Lwolfe@ncpg.gov.za](mailto:Lwolfe@ncpg.gov.za)

**Technical Advisor:** Mr Anzo Wax [ewax@ncpg.gov.za](mailto:ewax@ncpg.gov.za)

**PLEASE NOTE:**

Corrections by correctional fluid is not allowed in a bid document.

All corrections must be initialed. Failure to do so may result in such a bid being regarded as non- responsive.

If correctional fluid is used to correct signatures, prices and descriptions it **will** lead to a bid being regarded as non-responsive.

Re Advertising: Bid Number: NCDTSL 01/2022

Closing Date 20 September 2022:

Closing Time: 11:00

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**Request for proposal for Appointment of a Transactional Advisor to conduct a feasibility study and implementation of the management and construction of weighbridges in the Northern Cape Province**

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**Required by:**

Department Transport Safety & Liaison  
Northern Cape Provincial Government

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**Specifications and bid documents are available at Department of Transport Safety & Liaison OR download from the E-Tender Publication**

**Portal:** [www.etenders.gov.za](http://www.etenders.gov.za)

**Bid closes at (postal address):** Department Transport Safety & Liaison, Private Bag X1368, Kimberley, 8300

**Street Address:** c/o Lennox and Sidney Streets, Kimberley Floor 3 - Supply Chain Management.

**Contact Persons:** Adelaide Montwedi / Masego Ncube

**Telephone:** 053 839 1700 Ext. 731/808

**Email:** [amontwedi@ncpg.gov.za](mailto:amontwedi@ncpg.gov.za) / [mrattle@ncpg.gov.za](mailto:mrattle@ncpg.gov.za)

**Project Manager:** Mr Lesego Wolfe email: [lwolfe@ncpg.gov.za](mailto:lwolfe@ncpg.gov.za)

**Technical Advisor:** Mr Enzo Wax email: [ewax@ncpg.gov.za](mailto:ewax@ncpg.gov.za)

**PLEASE NOTE:**

A compulsory Technical session meeting will be held on Thursday, 08 September 2022, 11:00, at the Department of Transport Safety c/o Lennox and Sidney Streets, 3<sup>rd</sup> Floor Boardroom, Kimberley  
It is compulsory for bidders to make a presentation to the Functionality committee on the date that will be communicated  
all costs will be carried by the bidders

The Bid will be evaluated on two stage evaluation criteria

This bid will be evaluated in terms of the 80/20-point system prescribed by the Preferential Procurement Policy Framework Act, 05 of 2000 and revised Regulations 2017 & Technical Functionality

Bidders must submit two envelopes on the closing date & time of the bid Marked Envelope 1 & Envelop 2, failure to adhere to the request will be disqualifies

Envelop 1: Technical Proposal

Envelop 2: BBBEE & Price Proposal

From 18 April 2016, The South African Revenue Services (SARS) has introduced an enhanced electronic Tax Compliance Status (TCS) system which makes it easier for bidders to obtain Tax Clearance Certificates (TCC) – Tender as well as obtain a TCS pin which can be used by authorised third parties to verify your compliance status online via SARS e filling. In view of the above, a valid, printed tax clearance certificate- Tender – (not a tax clearance certificate “Good Standing”) must be submitted at closing date and time (Bid Document 2 refers)

1. In order to qualify for preference points out of 20 a valid, originally certified copy of bidders' B-BBEE status level verification certificate or sworn affidavit signed by the Exempted Micro Enterprise (EME) representative and attested by a Commissioner of Oath must be submitted with the bid document on closing date and time
2. Bidders are required to submit their detailed central suppliers Database (CSD) registration report (not the summary report) together with the bid document
3. Names of bidders that submitted bids will be published on the Departmental website of the Office of the Premier: [www//northern-cape.gov.za](http://www.northern-cape.gov.za) and or e-tender portal within Ten (10) days after closing of bid

## **IMPORTANT NOTICE**

### **NOTE 1**



PLEASE NOTE THAT THIS BID CLOSING AT:

DEPARTMENT TRANSPORT SAFETY & LIAISON,  
C/O LENNOX- AND SIDNEY STREETS, CENTRAL BUSINESS DISTRICT, KIMBERLEY.

### **TAKE NOTE:**

BIDDERS THAT WISH TO MAKE USE OF SPEED- OR COURIER SERVICES MUST MARK  
DELIVERY TO

### **REGISTRY**

DEPARTMENT TRANSPORT SAFETY & LIAISON,  
OCEAN ECHO BUILDING  
c/o LENNOX &  
, SIDNEY STREETS  
KIMBERLEY  
8301

AND NOT TO

THE POSTAL ADDRESS

BIDDERS MUST ALSO CONTACT THE REGISTRY,  
DEPARTMENT OF TRANSPORT SAFETY & LIAISON

 **053 839 1700**

STATING THE TRACKING NUMBER OF THE  
BID DOCUMENTS IN ORDER TO VERIFY WHETHER BID DOCUMENTS WERE  
DELIVERED.

BID DOCUMENTS DEPOSITED ANYWHERE ELSE WILL BE  
REGARDED AND TREATED  
AS LATE BIDS.

## **IMPORTANT NOTICE**

### **NOTE 2**



**PLEASE NOTE THE FOLLOWING REGARDING BID DOCUMENTS NCP 4: DECLARATION OF INTEREST  
&**

**NCP 8: BIDDERS' PAST SUPPLY CHAIN MANAGEMENT PRACTICES**

**➤ SHOULD THE BIDDER BE INVOLVED IN A  
CONSORTIUM or JOINT VENTURE,**

**EACH ENTITY MUST**

**DECLARE ITS INTERESTS ON A SEPARATE NCP 4 &  
PAST SUPPLY CHAIN MANAGEMENT PRACTICES ON A SEPARATE NCP 8  
*OTHERWISE THE BID SHALL BE INVALID.***

**✓ ATTACH AN ORIGINALLY CERTIFIED COPY OF ALL SHAREHOLDERS' IDENTITY  
DOCUMENTS – ORIGINALLY CERTIFIED DATE MAY NOT BE OLDER THAN THREE (3)  
MONTHS ON CLOSING DATE.**

**❖ AN ORIGINALLY CERTIFIED COPY OF THE LEGAL AGREEMENT BETWEEN  
ENTITIES/PARTIES INVOLVED IN A CONSORTIUM or JOINT VENTURE  
THAT INDICATES THE PERCENTAGE [%] OF SHARES HELD RESPECTIVELY,  
MUST  
ALSO BE ATTACHED TO BID DOCUMENTS.**

## **IMPORTANT NOTICE**

### **NOTE 3**



#### **PLEASE NOTE THAT:**

1. **ALL PRICES OFFERED MUST INCLUDE VALUE ADDED TAX (VAT).**
  
2. **COPIES OF ALL DOCUMENTS e.g. IDENTITY or REGISTRATION WITH  
A PROFESSIONAL- or REGULATORY BODY  
&  
the B-BBEE STATUS LEVEL CERTIFICATE  
MUST BE ORIGINALLY CERTIFIED.  
CERTIFICATION DATE MAY NOT BE OLDER THAN THREE (3) MONTHS ON  
DATE THAT BID CLOSES.**
  
3. **BID DOCUMENTS THAT HAVE TO BE WITNESSED, MUST BE WITNESSED  
BY TWO (2) WITNESSES.**

**FAILURE TO COMPLY WITH THESE PREREQUISITES SHALL RENDER A BID INVALID.**

## **ENVELOPE A**

### **NOTE 2**



**PLEASE NOTE THE FOLLOWING REGARDING BID DOCUMENTS NCP 4: DECLARATION OF INTEREST**

**➤ SHOULD THE BIDDER BE INVOLVED IN A  
CONSORTIUM or JOINT VENTURE,  
EACH ENTITY MUST**

**DECLARE ITS INTERESTS ON A SEPARATE NCP 4  
*OTHERWISE THE BID SHALL BE INVALID.***

**✓ ATTACH AN ORIGINALLY CERTIFIED COPY OF ALL SHAREHOLDERS' IDENTITY  
DOCUMENTS – ORIGINALLY CERTIFIED DATE MAY NOT BE OLDER THAN THREE (3)  
MONTHS ON CLOSING DATE.**

**❖ AN ORIGINALLY CERTIFIED COPY OF THE LEGAL AGREEMENT BETWEEN  
ENTITIES/PARTIES INVOLVED IN A CONSORTIUM or JOINT VENTURE  
THAT INDICATES THE PERCENTAGE [%] OF SHARES HELD RESPECTIVELY,  
MUST  
ALSO BE ATTACHED TO BID DOCUMENTS.**



## **ENVELOPE B**



**BIDDERS MUST CLEARLY MARK THEIR DETAILS ON THE ENVELOPE  
WHICH MUST CONTAIN THE FOLLOWING BIDDING FORMS:**

- **NCP 3.3 PROFESSIONAL PRICING SCHEDULE**
- **TERMS OF REFERENCE (TOR)**
- **ALL REQUIRED DOCUMENTATIONS AS PER THE TOR**
- **BANK STATEMENTS**

**Application for a Tax Clearance Certificate****Purpose**

Select the applicable option .....

Tenders ☐Good standing ☐

If "Good standing", please state the purpose of this application

**Particulars of applicant**Name/Legal name  
(Initials & Surname  
or registered name)Trading name  
(if applicable)

ID/Passport no

Company/Close Corp.  
registered no

Income Tax ref no

PAYE ref no 7

VAT registration no 4

SDL ref no L

Customs code

UIF ref no U

Telephone no

Fax  
no

E-mail address

Physical address

Postal address

**Particulars of representative (Public Officer/Trustee/Partner)**

Surname

First names

ID/Passport no

Income Tax ref no

Telephone no

Fax  
no

E-mail address

Physical address

**Particulars of tender** (If applicable)

Tender number

Estimated Tender amount

R 

Expected duration of the tender

 year(s)
**Particulars of the 3 largest contracts previously awarded**

Date started	Date finalised	Principal	Contact person	Telephone number	Amount

**Audit**

Are you currently aware of any Audit investigation against you/the company?

YES

NO

If "YES" provide details

**Appointment of representative/agent (Power of Attorney)**I the undersigned confirm that I require a Tax Clearance Certificate in respect of  Tenders or  Goodstanding.I hereby authorise and instruct  to apply to and receive from SARS the applicable Tax Clearance Certificate on my/our behalf.

Signature of representative/agent

Date

Name of representative/agent

**Declaration**

I declare that the information furnished in this application as well as any supporting documents is true and correct in every respect.

Signature of applicant/Public Officer

Date

Name of applicant/  
Public Officer
**Notes:**

- It is a serious offence to make a false declaration.
- Section 75 of the Income Tax Act, 1962, states: Any person who
  - fails or neglects to furnish, file or submit any return or document as and when required by or under this Act; or
  - without just cause shown by him, refuses or neglects to-
    - furnish, produce or make available any information, documents or things;
    - reply to or answer truly and fully, any questions put to him ...

As and when required in terms of this Act ... shall be guilty of an offence ...
- SARS will, under no circumstances, issue a Tax Clearance Certificate unless this form is completed in full.**
- Your Tax Clearance Certificate will only be issued on presentation of your South African Identity Document or Passport (Foreigners only) as applicable.

**PRICING SCHEDULE**  
(Professional Services)

NAME OF BIDDER: .....	BID NO.: .....
CLOSING TIME 11:00	CLOSING DATE.....

OFFER TO BE VALID FOR .....DAYS 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.....

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

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

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

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

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

DESCRIPTION OF EXPENSE TO BE INCURRED

RATE

QUANTITY

AMOUNT

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

..... R.....  
..... R.....  
..... R.....  
..... R.....

TOTAL: R.....

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

Bid No.: .....

Name of Bidder: .....

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

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

TOTAL: R.....

6. Period required for commencement with project after acceptance of bid  
.....
7. Estimated man-days for completion of project  
.....
8. Are the rates quoted firm for the full period of contract?  
\*YES/NO
9. If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index.  
.....  
.....  
.....  
.....

**\*[DELETE IF NOT APPLICABLE]**

Any enquiries regarding bidding procedures may be directed to the –

(INSERT NAME AND ADDRESS OF DEPARTMENT/ENTITY)

Tel:

Or for technical information –

(INSERT NAME OF CONTACT PERSON)

Tel:

## BIDDER'S DISCLOSURE

### 1. PURPOSE OF THE FORM

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

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

### 2. Bidder's declaration

- 2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest<sup>1</sup> in the enterprise, employed by the state? **YES/NO**

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

Full Name	Identity Number	Name of State institution

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

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

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

2.2.1 If so, furnish particulars:

.....  
 .....

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

2.3.1 If so, furnish particulars:

.....  
 .....

### 3 DECLARATION

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

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>2</sup> will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring

<sup>2</sup> Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

**SBD4**

institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

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

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

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of bidder



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

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

**NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.**

### 1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2

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

1.3 Points for this bid shall be awarded for:

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

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

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

1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

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

## 2. DEFINITIONS

- (a) **"B-BBEE"** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **"B-BBEE status level of contributor"** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) **"bid"** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;
- (d) **"Broad-Based Black Economic Empowerment Act"** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **"EME"** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) **"functionality"** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) **"prices"** includes all applicable taxes less all unconditional discounts;
- (h) **"proof of B-BBEE status level of contributor"** means:
  - 1) B-BBEE Status level certificate issued by an authorized body or person;
  - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
  - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) **"QSE"** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) **"rand value"** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

## 3. POINTS AWARDED FOR PRICE

### 3.1 THE 80/20 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 bid under consideration
- $P_t$  = Price of bid under consideration
- $P_{\min}$  = Price of lowest acceptable bid

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

- 4.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

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

## 5. BID DECLARATION

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

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

- 6.1 B-BBEE Status Level of Contributor: . = .....(maximum of 10 or 20 points)  
(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

## 7. SUB-CONTRACTING

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

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

- 7.1.1 If yes, indicate:

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

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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- v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations, 2017:

Designated Group: An EME or QSE which is at least 51% owned by:	EME ✓	QSE ✓
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		

Black people who are military veterans		
<b>OR</b>		
Any EME		
Any QSE		

**8. DECLARATION WITH REGARD TO COMPANY/FIRM**

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

8.2 VAT ..... registration  
number:.....

8.3 Company ..... registration  
number:.....

**8.4 TYPE OF COMPANY/ FIRM**

Partnership/Joint Venture / Consortium

One person business/sole propriety

Close corporation

Company

(Pty) Limited

[TICK APPLICABLE BOX]

**8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

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

**8.6 COMPANY CLASSIFICATION**

Manufacturer

Supplier

Professional service provider

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

[TICK APPLICABLE BOX]

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

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a

fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –

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

WITNESSES

- 1. ....
- 2. ....

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

DATE: .....

ADDRESS .....

.....  
.....

## CONTRACT FORM - PURCHASE OF GOODS/WORKS

**THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SUCCESSFUL BIDDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SUCCESSFUL BIDDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.**

### PART 1 (TO BE FILLED IN BY THE BIDDER)

1. I hereby undertake to supply all or any of the goods and/or works described in the attached bidding documents to (name of institution)..... in accordance with the requirements and specifications stipulated in bid number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the purchaser during the validity period indicated and calculated from the closing time of bid.
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
  - (i) Bidding documents, viz
    - Invitation to bid;
    - Tax clearance certificate;
    - Pricing schedule(s);
    - Technical Specification(s);
    - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2011;
    - Declaration of interest;
    - Declaration of bidder's past SCM practices;
    - Certificate of Independent Bid Determination
    - Special Conditions of Contract;
  - (ii) General Conditions of Contract; and
  - (iii) Other (specify)
3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the goods and/or works specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.
5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT) .....

CAPACITY .....

SIGNATURE .....

NAME OF FIRM .....

DATE .....

#### WITNESSES

1 .....  
SIGNATURE

.....  
SURNAME AND INITIALS

DATE: .....

2. ....  
SIGNATURE

.....  
SURNAME AND INITIALS

DATE: .....

**CONTRACT FORM - PURCHASE OF GOODS/WORKS****PART 2 (TO BE FILLED IN BY THE PURCHASER)**

1. I..... in my capacity as.....  
accept your bid under reference number .....dated.....for the supply of goods/works  
indicated hereunder and/or further specified in the annexure(s).
2. An official order indicating delivery instructions is forthcoming.
3. I undertake to make payment for the goods/works delivered in accordance with the terms and conditions of the  
contract, within 30 (thirty) days after receipt of an invoice accompanied by the delivery note.

ITEM NO.	PRICE (ALL APPLICABLE TAXES INCLUDED)	BRAND	DELIVERY PERIOD	B-BBEE STATUS LEVEL OF CONTRIBUTION	MINIMUM THRESHOLD FOR LOCAL PRODUCTION AND CONTENT (if applicable)

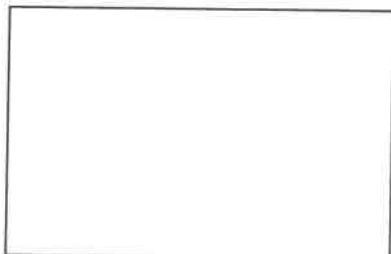
4. I confirm that I am duly authorised to sign this contract.

SIGNED AT .....ON.....

NAME (PRINT) .....

SIGNATURE .....

OFFICIAL STAMP

**WITNESSES**

1. ....  
SIGNATURE

.....  
SURNAME AND INITIALS

DATE: .....

2. ....  
SIGNATURE

.....  
NAME AND INITIALS

DATE: .....



## Transport, Safety and Liaison

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## NORTHERN CAPE PROVINCE

**RE-BID NCDTSL01/2022: REQUEST FOR PROPOSAL  
APPOINTMENT OF TRANSACTION ADVISOR SERVICES TO  
CONDUCT ASSESSMENT OF THE FEASIBILITY AND  
IMPLEMENTATION OF THE MANAGEMENT AND  
CONSTRUCTION OF WEIGHT BRIDGES IN THE NORTHERN  
CAPE PROVINCE.**



**DISCLAIMER**

The Northern Cape Department of Transport Safety and Liaison has issued this Terms of Reference document to all potential Bidders who are requested to respect the confidential nature of the document.

The Terms of Reference document is issued in terms of Regulation 16 of the Treasury Regulations to the Public Finance Management Act, 1 of 1999 and stipulates the requirements for participation in the Request for Proposal process, as well as the terms and conditions applicable to such participation.

Although the Department has taken all reasonable care in preparing this document, this document does not purport to be exhaustive or intended to be such and potential Bidders are required to conduct their own investigations and assessment of the Project. The Department provides all information in good faith and for guidance and assistance to potential Bidders in the preparation of their Bids but does not warrant the accuracy, completeness or correctness of any information provided, and shall assume no liability for any loss or damage suffered by any party relying on the information provided

The Terms of Reference does not constitute an offer by the Department or provide a basis for third parties to consider any form of contractual relationship with the Department. A formal contractual relationship with any party shall only be established once the Department and a successful Bidder have entered into a PPP Agreement and all conditions precedent (if any) have been satisfied.

The Department will conduct the procurement process in a manner which is fair, equitable, transparent and competitive and provides all Bidders with an equal opportunity to submit Bids and have them evaluated fairly and transparently by professional evaluation committees.

The Department reserves the right to suspend and/or not to proceed with the Project or to re-issue the Project to the market at any time during the procurement process or to alter the proposed timetable contained in this document, and parties shall have no right of recourse or claim to the Department for any costs or damages due to such termination or variation.

All costs and expenses incurred by Bidders in submitting Bids for the Project shall be borne by the Bidders and the Department shall not be liable for any costs or expenses or any claim for reimbursement of such costs or expenses.

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## 1. INTRODUCTION

This document sets out the Terms of Reference (ToRs) for undertaking a feasibility study, business plan, implementation programme and procurement for the Construction of a Weight Bridge in the John Taolo Gaetsewe district and the Portfolio Optimisation Project for Four existing Weight Bridges in the respective district.

The Northern Cape Department of Transport Safety and Liaison (NCDTSL) has identified the need to construct a weight bridge in the John Taolo Gaetsewe district as well as optimise its weight bridge portfolio by implementing alternative service delivery mechanisms that are feasible – for each weight bridge and for the portfolio as a whole. This is aimed at balancing the department's desire to return its weight bridge assets to sustainability or profitability and adding to the transport and Roads management in the province.

The strategic mission of the Department includes:

Its mission is to enable a safe and secure environment and mobility for the community of the Northern Cape through: good corporate governance, management, administration and support; establishing and supporting community safety partnerships; monitoring and oversight of the police; facilitating and coordinating social crime prevention and road safety programmes; educating, enforcing and administering road traffic legislation; liaison with all relevant stakeholders, role-players and clients pertaining to policing, safety and security; regulated and integrated transport modes that are economically and environmentally sustainable

The Department wishes to explore the available alternative service delivery mechanisms to manage its portfolio of weight bridges in terms of the relevant National Treasury regulations to the Public Finance Management Act 1, 1999 (PFMA) and, where appropriate the *National Treasury's PPP Manual*, all of which potential advisors are required to be familiar with.

The Department thus intends to procure the services of an experienced advisor to assist it through the regulated phases of the project cycle.

These terms of reference invite proposals from bidders representing teams of suitably qualified and experienced financial, technical and legal advisors to help the Department:

- **Phase II: Feasibility Study**

The feasibility study consists of one stage. In TA I, after reviewing and considering all the previous study and analysis work already done by the Department and service providers, the advisor takes the Department through the needs analysis, the technical options analysis, project due diligence, Value assessment, Economic Valuation and the Procurement Plan. At this point, the Department may wish to opt for an internal option and the advisor's contract is either terminated or reviewed to assist the Department with restructuring its service in compliance. If the Department decides to analyse an external PPP mechanism in more depth, it proceeds with the procurement phase. If it does not, then the contract is terminated.

- **Phase III: Procurement**

If on the basis of the feasibility study, an external option is decided on, the advisor will provide the necessary technical, legal, and financial advisory support for the procurement of an external option.

The scope of work is divided into these two phases. The advisor needs to submit a single bid divided into these components (Feasibility Study and Procurement), in the formats prescribed in these terms

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of reference. The work of the advisor may be terminated at the end of any stage without any additional remuneration other than that priced for that stage. Bidders need therefore to ensure that the price quoted for each stage adequately covers the work to be undertaken in that stage.

(Reference to 'the advisor' includes the entire advisory team, or relevant members, under the management of a single lead advisor who shall be contracted with the Department).

## **2. BACKGROUND**

### **2.1 Mandate**

The mandate of the Northern Cape Department of Transport, Safety and Liaison is to be a leader in the creation and coordination of safe, secure and sustainable transport and policing systems for a crime-free Northern Cape Province. Its mission is to enable a safe and secure environment and mobility for the community of the Northern Cape through: good corporate governance, management, administration and support; establishing and supporting community safety partnerships; monitoring and oversight of the police; facilitating and coordinating social crime prevention and road safety programmes; educating, enforcing and administering road traffic legislation; liaison with all relevant stakeholders, role-players and clients pertaining to policing, safety and security; regulated and integrated transport modes that are economically and environmentally sustainable.

The Department's strategic outcome-orientated goals are: to support and ensure the smooth functioning of the Department; transparent and accountable law enforcement agencies in the Northern Cape; a safe and secure environment in the province; to enable and ensure effective, efficient and safe mobility in the province; to reduce road crashes and fatalities on the roads network.

### **2.2 Needs**

The project will address the Department's mandate in terms of effective promotion, coordination and implementation of road traffic strategies and legislation; and to further enhance the overall quality of road traffic services by promoting, coordinating and implementing road traffic safety and by managing the process of vehicle registration and licencing.

### **2.3 Objectives**

The objectives for this project are:

- The construction of a weighbridge and management thereof in the John Taolo Gaetsewe District (JTG) along the Gasegonyana Mining Corridor; and
- The upgrading and rehabilitation and upgrading of the four (4) existing weighbridges in the Province, which are currently managed by the DTSL, and are, located along the National road network viz. N7 Springbok, N14 Upington, N1 Colesberg and N12 Kimberley.

### **2.4 Background documentation and preparatory work**

The advisor will have to become familiar with all background documentation and preparatory work conducted to date by the Department for this project. Refer to 'Appendix A: Background and supporting documentation' for a list and/or copies of relevant material.

A preliminary needs analysis has been undertaken, establishing that:

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REQUEST FOR PROPOSAL APPOINTMENT OF TRANSACTION ADVISORY SERVICES TO CONDUCT ASSESSMENT OF THE FEASIBILITY AND IMPLEMENTATION OF THE MANAGEMENT AND CONSTRUCTION OF WEIGHT BRIDGES IN THE NORTHERN CAPE PROVINCE

- The function of managing and maintaining weight bridges is not effectively managed by the Department due to budgetary constraints and requires alternatives to improve management and service delivery outcomes; some options for management solutions have been investigated (Refer to Benchmark Exercise Report Appendix B);
- Adjustments in the quality standards of facilities are required to meet recommended minimum standards and modern technology;
- A human resources solution needs to be found, in consultation with affected staff and labour representatives, in order to ensure that staff with the correct skills and qualifications are employed in the weight bridges portfolio;
- The rehabilitation and upgrading (including replacement of soft furnishings, etc.) of the weight bridges needs to be brought in line with industry standards;
- Current tariffs may be out of sync with benchmarked standards and a reviewed tariff model is required;
- Costing estimates were undertaken in 2015, meaning they are now out dated and would require updating and / or complete review.

### 3. THE LEGISLATIVE AND POLICY FRAMEWORK

The National Constitution of the Republic of South Africa, 1996 in terms of Section 217 requires that all public procurement be in accordance with a system which is fair, equitable, transparent, competitive and cost-effective. ... The Preferential Procurement Policy Framework Act, 2000 (PPPFA) requires organs of state to develop and implement a preferential procurement policy; The Public Finance Management Act (PFMA) Act 1 of 1999; Treasury Regulations 16 on Public Private Partnerships (PPP)

### 4. SECTION 1: RULES OF BIDDING, BID SUBMISSION REQUIREMENTS AND BID EVALUATION

#### 4.1 Special Conditions of This Bid

The NCDTSL reserves the right:

- To award this tender to a bidder that did not score the highest total number of points, only in accordance with section 2(1)(f) of the PPPFA (Act 5 of 2000)
- To negotiate with one or more preferred bidder(s) identified in the evaluation process, regarding any terms and conditions, including price, without offering the same opportunity to any other bidder(s) who has not been awarded the status of the preferred bidder(s).
- To correct any mistakes at any stage of the tender that may have been in the Bid documents or occurred at any stage of the tender process.
- To cancel and/or terminate the tender process at any stage, including after the closing date and/or after presentations have been made, and/or after tenders have been evaluated and/or after the preferred bidder(s) have been notified of their status as such.

#### 4.2 Bid submission requirements

Bidder(s) are required to initial each page of the tender document on the bottom right hand corner.

Advisors are required to submit their proposals in **two envelopes** in the following format:

##### 4.1.1. Envelope 1: Technical and BBBEE proposals

- Marked with the name of the advisor.

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- Titled 'Technical proposal: Advisor services to the Department of Transport Safety And Liaison for a detailed assessment of the feasibility and implementation of the management and construction of weight bridges in the Northern Cape Province..

This envelope must contain at least the following:

**4.1.1.1. Covering letter signed by the lead advisor, among others:**

- accepting the rules of bidding, evaluation of bids, and bid evaluation criteria set out in the terms of reference
- attaching a tax clearance certificate from South African Revenue Services for the lead advisor firm and all South African firms to be subcontracted to it for this assignment, or all South African firms participating in a joint venture for purposes of this bid
- Providing full contact details for the lead advisor.

**4.1.1.2. Information on and motivation for the lead advisor, attaching his or her curriculum vitae, and setting out his or her personal, and his or her firm's:**

- suitability for this assignment;
- relevant skills and experience: For each relevant experience cited, outline the precise role the lead advisor played, the role of the firm, contract duration, contract outcomes, and contract value;
- availability to perform the work: This must be substantiated by listing the lead advisor's other known professional commitments for the forthcoming two years;
- The BBBEE shareholder equity in the lead advisor company.

**4.1.1.3. Names and BBBEE status of all proposed team members, and their firms, setting out:**

- The professional role that each person will play in the assignment. This must be cross-referenced to each deliverable set out in this terms of reference;
- The suitability of each person for the proposed roles in terms of their relevant skills and experience;
- Their availability to perform the work;
- One-page resumés of each person highlighting responsibilities held and experience relevant to this assignment in the last 5 years;
- Summary of the percentage of black South African professionals on the team, clearly showing the roles they will play in providing the advisory services.

**4.1.1.4. The BBBEE proposal, setting out:**

- the number and percentage of black professionals playing leading roles in the advisor consortium
- the percentage of black equity in the consortium
- demonstrated understanding of skill and experience within the team on concluding effective black participation in PPPs
- Skills transfer plan within the consortium to directly benefit black professionals.

**4.1.1.5. Project comprehension and project management plan, setting out:**

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- the advisor's understanding of the terms of reference, and any proposals for amendments to the terms of reference that would enhance desired outcomes
- how the advisor proposes to manage the set of deliverables outlined in the terms of reference
- a proposed outline work plan with timetable for delivery
- how the advisor members will be supervised
- how reporting to the project officer will take place
- any innovative ideas for how the whole assignment can best achieve its objectives.

The technical envelope must not include any price proposal.

#### **4.1.2. Envelope 2: Price proposal**

- Marked with the name of the advisor.
- Titled: 'Price proposal: Advisor services to the Department Of Transport Safety And Liaison for a detailed assessment of the feasibility and implementation of the management and construction of weight bridges in the Northern Cape Province.

**This envelope must contain:**

##### **4.1.2.1. Proposed remuneration for professional fees:**

- a remuneration proposal in the remuneration format outlined at 4.2.1 above, giving professional cost per deliverable item and total for each part as indicated;
- VAT must be specified as a separate total for each of the feasibility study and PPP procurement parts. While VAT will be paid pro rata for each delivery item in each part of the assignment, it should be indicated as a total sum per part for purposes of this submission.

4.1.2.2. Itemisation of fees payable to each member of the advisor, specifically showing fees payable to black members of the consortium.

4.1.2.3. An estimation of anticipated disbursement costs per part of work. This information will not be used as a criterion for the evaluation of bids, and the successful bidder will not be held to this amount.

4.1.2.4. A marked-up version of the draft advisor contract (attached here as Annexure C), including the proposed remuneration set out in a draft proposed payments schedule to the contract.

#### **4.3 Bid evaluation**

A Bid Evaluation Committee (BEC) will be established by the Department comprising representatives of the Department and the relevant treasury's PPP Unit. The panel will evaluate all advisor bids received by the deadline, according to the criteria indicated here. It will make a recommendation to the Bid Adjudication Committee (BAC) on the appointment of the preferred advisor.

The bid evaluation panel reserves the right to call bidders to complete any outstanding elements of their bids, make presentations of their bids, and/or present best and final offers if required.

The Bid Adjudication Committee will make a further recommendation to the Head of the Department. The Head of the Departments decision is final

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The price proposal envelopes of each bid received will be locked away until the technical and BBBEE proposals have been evaluated by the bid evaluation panel. The price proposals of only those bids whose technical and BBBEE proposals meet or better the technical and BBBEE threshold scores set out in the bid evaluation criteria (section 7.6 below) will be considered. Those bids that do not meet the technical and BBBEE threshold scores will have their price proposal envelopes returned unopened and will not be further considered for selection.

Any bid which fails to submit any element of the bid submission requirements set out in 7.2 above may, at the discretion of the bid evaluation panel, be rejected as unsuitable for evaluation, and will therefore not be further considered.

#### 4.4 Bid evaluation criteria

The bid will be evaluated on two stage evaluation criteria

Evaluation will be based on a point system. The following are the maximum number of points that can be awarded for each element and the threshold score for each category:

Evaluation element	Maximum points	Minimum score
Technical proposal	100	60
BBBEE proposal	80	80
Price proposal	20	20

The bid which achieves the highest total points out of 100 will be recommended by the bid evaluation panel as the preferred advisor.

#### 4.5 Envelope 1: Technical Proposal

All bidder(s) are required to respond to the functionality evaluation criteria scorecard as indicated below. Only bidder(s) that have met mandatory requirements in terms of Bid submissions and rules will be evaluated for functionality.

A bidder that scores less than 60% for functionality will be regarded as nonresponsive and will be disqualified. All bidder(s) who receive 60% and more for functionality will further be evaluated on points for price and BBBEE score.

The criteria that will be considered for determining functionality include:

##### 4.5.1. Functionality Evaluation Criteria: = 100 points

	Criteria	Scoring (for whole or each sub-element where applicable)	Maximum points	
Technical proposal				
1	Financial analysis and project finance	Excellent = 7.5 Acceptable = 4 Poor =0		15
	- Skills		7.5	
	- Relevant experience		7.5	
2	Legal	Excellent = 7.5 Acceptable = 4 Poor =0		15
	- Skills		7.5	
	- Relevant experience		7.5	

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## REQUEST FOR PROPOSAL APPOINTMENT OF TRANSACTION ADVISORY SERVICES TO CONDUCT ASSESSMENT OF THE FEASIBILITY AND IMPLEMENTATION OF THE MANAGEMENT AND CONSTRUCTION OF WEIGHT BRIDGES IN THE NORTHERN CAPE PROVINCE

<b>3</b>	<b>Technical skills appropriate to the project<sup>1</sup></b>	Excellent =7.5		
	- Skills	Acceptable =	7.5	
	- Relevant experience	Poor =0	7.5	15
<b>4</b>	<b>PPP procurement and structuring: Relevant experience and track record</b>	Excellent =9 Acceptable =5 Poor =0	5	9
<b>5</b>	<b>Negotiations: Relevant experience and track record</b>	Excellent =9 Acceptable =5 Poor =0	5	9
<b>6</b>	<b>Skills and relevant experience<sup>2</sup></b>	Excellent =9 Acceptable =5 Poor =0	5	9
<b>7</b>	<b>Quality of project comprehension demonstrated in proposals<sup>3</sup></b>	Excellent =10 Acceptable =5 Poor =0	5	10
<b>8</b>	<b>Quality of proposed work plan, project management approach and timetable for the project</b>	Excellent =9 Acceptable =5 Poor =0	5	9
<b>9</b>	<b>Lead advisor's availability for the work</b>	Excellent =9 Acceptable =5 Poor =0	5	9
	<b>Total technical points</b>		100	
	<b>Minimum Technical score</b>		60	

Department of Transport Safety & Liaison reserves the right to request presentations/demonstrations from Bidders as part of the bid evaluation process. Bidders will be responsible for their own cost to attend the presentation

#### 4.6 Envelope 2: BBBEE and Price proposal

As the total budget for this assignment has been declared by the Department, a total of 80 points is allocated to BBBEE and 20 points to the price component of the bid. The lowest total bid price for the terms of reference will be allocated the maximum points indicated below. The remaining bids will be allocated price proposal points pro rata. Bids must be submitted in South African Rands, on a fixed price basis.

##### 4.6.1. Price and BBBEE Evaluation (80+20) = 100 points

Only Bidders that have met the 60% threshold on Technical Assessment will be evaluated for price and BBBEE. Price and BBBEE will be evaluated as follows:

In terms of regulation 6 of the Preferential Procurement Regulations pertaining to the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000) in terms of PPPP Regulations of 2017 responsive bids will be evaluated on the 80/20-preference point system in terms of which points are awarded to bidders on the basis of:

- The bid price (maximum 80 points)

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- B-BBEE status level of contributor (maximum 20 points)

**i. Stage 1 – Price Evaluation (80 Points)**

Criteria	Points
Price Evaluation	
$Ps = 0 \left( 1 - \frac{Pt - P_{\min}}{P_{\min}} \right)$	80

Where

Ps = Points scored for comparative price of bid under consideration

Pt = Comparative price of bid under consideration

Pmin = Comparative price of lowest acceptable bid

**BBBEE Evaluation (20 Points)**

**4.6.2. BBBEE Points allocation**

A maximum of 20 points may be allocated to a bidder for attaining their B-BBEE status level of contributor in accordance with the table below:

B-BBEE Status Level of Contributor	Number of Points
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

B-BBEE points may be allocated to bidders on submission of the following documentation or evidence:

- A duly completed Preference Point Claim Form: Standard Bidding Document (SBD 6.1); and
- B-BBEE Certificate

**4.7 List of Returnable Forms**

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Without limiting the generality of the NCDTSL's other critical requirements for this bid, prospective bidder(s) must submit the documents listed in the table below. All documents must be completed and signed by the duly authorised representative of the prospective bidder(s).

During this phase, bidder(s)' responses will be evaluated based on compliance with the listed administration and mandatory bid requirements. The bidder(s) proposal may be disqualified for non-submission of any of the documents.

SBD 1	Invitation to bid
SBD 2	Tax Clearance Certificate requirements forms & Tax Status
SBD 3.3	Pricing Schedule – Professional Services
SBD 4	Declaration of Interest
SBD 6.1	Preference Point Claim Form & Original certified BBBEE certificate with SANA's logo or original sworn affidavit.
SBD 7.2	Contract form Rendering of Services
General Condition of Contract	
Registration on Suppliers Data Base (CSD)	The Transaction Advisor must be registered as a service provider on the Central Supplier Database (CSD). If you are not registered proceed to complete the registration of your company prior to submitting your proposal. Visit <a href="https://secure.csd.gov.za/">https://secure.csd.gov.za/</a> to obtain your vendor number. Submit proof of registration.
Three (3) years Audited Financial Statements 2019-2022	The company must submit annual financial statements in line with the Companies ACT and Close Corporation ACT.
Bank Confirmation of credit Facility	The Transaction Advisor Company must submit a valid bank confirmation of available credit facility

#### 4.8 Timeline of the Bid Process

The period of validity of tender and the withdrawal of offers, after the closing date and time, is **120 days**. The project timeframes of this bid are set out below:

Advertisement of Bid on Government e-tender portal / print media / Tender bulletin	19 August 2022
Information Session Meeting	08 September 2022
Bid Closing Date	20 September 2022
Publishing of Bidders Name on Premiers website	30 September 2022
Presentation by bidders	26 October 2022
Bid Evaluation	10 November 2022
Bid Adjudication	17 November 2022
Award	30 November 2022

Note, all dates and times in this bid are South African standard time. Any time or date in this bid is subject to change at the NCDTSL's discretion. The establishment of a time or date in this bid does not

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create an obligation on the part of the NCDTSL to take any action, or create any right in any way for any bidder to demand that any action be taken on the date established. The bidder accepts that, if the NCDTSL extends the deadline for bid submission (the Closing Date) for any reason, the requirements of this bid otherwise apply equally to the extended deadline.

#### **4.9 Rules of bidding**

The advisor must be a single legal entity with all other necessary expertise secured via subcontract, or under a joint venture arrangement. The Department will enter into a single contract with a single firm for the delivery of the work set out in these terms of reference.

##### **4.9.1. Contact and Communication**

All communication between the bidder(s) and the NCDTSL must be done in writing.

The bidder(s) must make all enquiries in writing to Ms Adelaide Montwedi / Ms Masego Ncube via email at [mrattle@ncpg.gov.za](mailto:mrattle@ncpg.gov.za). The delegated office of the NCDTSL may communicate with bidder(s) for any clarity regarding the bid proposal.

Firms may ask for clarification on these terms of reference or any of its annexures up to close of business 48 hours before the deadline for the submission of bids. Any request for clarification must be submitted by email to the project officer at [lwolfe@ncpg.gov.za]. Copies of questions and answers will be emailed to all firms that register at the briefing session, without revealing the identity of the source of the questions.

Whilst all due care has been taken in preparation of this bid, the NCDTSL makes no representations or warranties that the content of the bid or any information communicated to or provided to bidder(s) during the bidding process is, or will be, accurate, current or complete. The NCDTSL and its employees and advisors will not be liable with respect to any information communicated which may not be accurate, current or complete.

If the bidder(s) finds or reasonably believes they found any discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by the NCDTSL (other than minor clerical matters), the bidder(s) must promptly notify the NCDTSL in writing of such discrepancy, ambiguity, error or inconsistency in order to afford the NCDTSL an opportunity to consider what corrective action is necessary (if any), at the discretion of the NCDTSL.

Any actual discrepancy, ambiguity, error or inconsistency in the bid or any other information provided by the NCDTSL will, if possible, be corrected and provided to all prospective bidder(s) without attribution to the bidder(s) who provided the written notice.

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

##### **4.9.2. Compulsory briefing session**

The Department will hold a briefing session on the terms of reference. All potential advisors are required to attend and to register their interest in submitting bids. The list of attendees will be

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circulated to all present to encourage the formation of appropriate consortia. No party registering interest is, however, bound to submit a bid.

Date: Thursday, 8<sup>th</sup> September 2022

Time: 11:00

Venue: Department of Transport Safety & Liaison, Ocean Echo Building, C/O Lennox & Sidney Street, 5<sup>th</sup> Floor Boardroom, Kimberley, Northern Cape Province

Please confirm attendance by email to: [amontwedi@ncpg.gov.za](mailto:amontwedi@ncpg.gov.za)/mrattle@ncpg.gov.za

#### **4.9.3. Address and deadline for submission of bids**

Bids by advisors must be submitted in a single sealed envelope, **containing the two, and separate, sealed envelopes** required.

The envelope must be marked: 'Advisor services to the Department of Transport Safety And Liaison for a detailed assessment of the feasibility and implementation of the management and construction of weight bridges in the Northern Cape Province.'

The bid must be hand delivered to:

The bid box

Attention: Ms Adelaide Montwedi / Ms Masego Ncube

Supply Chain Management

Department of Transport Safety & Liaison

Ocean Echo Building

Cnr. Sydney and Lennox Street

PO Box 1368

Kimberley

8300

**By no later than 20 September 2022 at 11:00**

The Department will record all bids received by the deadline.

#### **4.9.4. Late submission of bids**

Bids received after the closing date and time, at the address indicated in the bid documents, will not be accepted for consideration. The Department reserves the right to return late bid submissions unopened. Late submissions will be accepted only in exceptional circumstances and only within 12 hours of the deadline for the submission of bids and at the discretion of the Accounting Authority.

#### **4.9.5. Preparation Costs**

The costs of preparing bids and of negotiating the contract will not be reimbursed. The Bidder will bear all its costs in preparing, submitting and presenting any response or Tender to this bid and all other costs incurred by it throughout the bid process. Furthermore, no statement in this bid will be construed as placing NCDTSL, its employees or agents under any obligation whatsoever, including in respect of costs, expenses or losses incurred by the bidder(s) in the preparation of their response to this bid.

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**4.9.6. Indemnity**

If a bidder breaches the conditions of this bid and, as a result of that breach, NCDTSL incurs costs or damages (including, without limitation, the cost of any investigations, procedural impairment, repetition of all or part of the bid process and/or enforcement of intellectual property rights or confidentiality obligations), then the bidder indemnifies and holds NCDTSL harmless from any and all such costs which NCDTSL may incur and for any damages or losses NCDTSL may suffer.

**4.9.7. Precedence**

This document will prevail over any information provided during any briefing session whether oral or written, unless such written information provided, expressly amends this document by reference.

**4.9.8. Limitation of Liability**

A bidder participates in this bid process entirely at its own risk and cost. NCDTSL shall not be liable to compensate a bidder on any grounds whatsoever for any costs incurred or any damages suffered as a result of the Bidder's participation in this Bid process.

**4.9.9. Tax Compliance**

No tender shall be awarded to a bidder who is not tax compliant. NCDTSL reserves the right to withdraw an award made, or cancel a contract concluded with a successful bidder in the event that it is established that such bidder was in fact not tax compliant at the time of the award, or has submitted a fraudulent Tax Clearance Certificate to NCDTSL, or whose verification against the Central Supplier Database (CSD) proves noncompliant. NCDTSL further reserves the right to cancel a contract with a successful bidder in the event that such bidder does not remain tax compliant for the full term of the contract.

**4.9.10. Tax Legislation**

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

The Tax Compliance status requirements are also applicable to foreign bidder(s) individuals who wish to submit bids.

It is a requirement that bidder(s) be granted a written confirmation when submitting this bid that SARS may on an ongoing basis during the tenure of the contract disclose the bidder's tax compliance

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status and by submitting this bid such confirmation is deemed to have been granted. Bidder(s) are required to be registered on the Central Supplier Database and the NCDTSL shall verify the bidder's tax compliance status through the Central Supplier Database.

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.

#### **4.9.11. Tender Defaulters and Restricted Suppliers**

No tender shall be awarded to a bidder whose name (or any of its members, directors, partners or trustees) appear on the Register of Tender Defaulters kept by National Treasury, or who have been placed on National Treasury's List of Restricted Suppliers. NCDTSL reserves the right to withdraw an award, or cancel a contract concluded with a bidder should it be established, at any time, that a bidder has been blacklisted with National Treasury by another government institution.

#### **4.9.12. Governing Law**

South African law governs this bid and the bid response process. The bidder agrees to submit to the exclusive jurisdiction of the South African courts in any dispute of any kind that may arise out of or in connection with the subject matter of this bid, the bid itself and all processes associated with the bid.

#### **4.9.13. Responsibility for Sub-Contractors and Bidder's Personnel**

A bidder is responsible for ensuring that its personnel (including agents, officers, directors, employees, advisors and other representatives), its sub-contractors (if any) and personnel of its sub-contractors comply with all terms and conditions of this bid. In the event that NCDTSL allows a bidder to make use of sub-contractors, such subcontractors will at all times remain the responsibility of the bidder and NCDTSL will not under any circumstances be liable for any losses or damages incurred by or caused by such sub-contractors.

#### **4.10 Confidentiality**

Except as may be required by operation of law, by a court or by a regulatory authority having appropriate jurisdiction, no information contained in or relating to this bid or a bidder's tender(s) will be disclosed by any bidder or other person not officially involved with NCDTSL's examination and evaluation of a Tender.

No part of the bid may be distributed, reproduced, stored or transmitted, in any form or by any means, electronic, photocopying, recording or otherwise, in whole or in part except for the purpose

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of preparing a Tender. This bid and any other documents supplied by NCDTSL remain proprietary to NCDTSL and must be promptly returned to NCDTSL upon request together with all copies, electronic versions, excerpts or summaries thereof or work derived there from.

Throughout this bid process and thereafter, bidder(s) must secure NCDTSL's written approval prior to the release of any information that pertains to (i) the potential work or activities to which this bid relates; or (ii) the process which follows this bid. Failure to adhere to this requirement may result in disqualification from the bid process and civil action.

#### **4.11 NCDTSL Proprietary Information**

Bidder will on their bid cover letter make declaration that they did not have access to any NCDTSL proprietary information or any other matter that may have unfairly placed that bidder in a preferential position in relation to any of the other bidder(s).

#### **4.12 Required Declarations from Bidder(S)**

In the bidder's technical response, bidder(s) are required to declare the following:

Confirm that the bidder(s) is to: —

- a) Act honestly, fairly, and with due skill, care and diligence, in the interests of the NCDTSL;
- b) Have and employ effectively the resources, procedures and appropriate technological systems for the proper performance of the services;
- c) Act with circumspection and treat the NCDTSL fairly in a situation of conflicting interests;
- d) Comply with all applicable statutory or common law requirements applicable to the conduct of business;
- e) Make adequate disclosures of relevant material information including disclosures of actual or potential own interests, in relation to dealings with the NCDTSL;
- f) Avoidance of fraudulent and misleading advertising, canvassing and marketing;
- g) To conduct their business activities with transparency and consistently uphold the interests and needs of the NCDTSL as a client before any other consideration; and
- h) To ensure that any information acquired by the bidder(s) from the NCDTSL will not be used or disclosed unless the written consent of the client has been obtained to do so.

#### **4.13 Conflict of Interest, Corruption and Fraud**

The NCDTSL reserves its right to disqualify any bidder who either itself or any of whose members (save for such members who hold a minority interest in the bidder through shares listed on any recognised stock exchange), indirect members (being any person or entity who indirectly holds at least a 15% interest in the bidder other than in the context of shares listed on a recognised stock exchange), directors or members of senior management, whether in respect of the NCDTSL or any other government organ or entity and whether from the Republic of South Africa or otherwise ("Government Entity")

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- a) engages in any collusive tendering, anti-competitive conduct, or any other similar conduct, including but not limited to any collusion with any other bidder in respect of the subject matter of this bid;
- b) seeks any assistance, other than assistance officially provided by a Government Entity, from any employee, advisor or other representative of a Government Entity in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity;
- c) makes or offers any gift, gratuity, anything of value or other inducement, whether lawful or unlawful, to any of NCDTSL's officers, directors, employees, advisors or other representatives;
- d) makes or offers any gift, gratuity, anything of any value or other inducement, to any Government Entity's officers, directors, employees, advisors or other representatives in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity;
- e) accepts anything of value or an inducement that would or may provide financial gain, advantage or benefit in relation to procurement or services provided or to be provided to a Government Entity;
- f) pays or agrees to pay to any person any fee, commission, percentage, brokerage fee, gift or any other consideration, that is contingent upon or results from, the award of any tender, contract, right or entitlement which is in any way related to procurement or the rendering of any services to a Government Entity;
- g) has in the past engaged in any matter referred to above; or
- h) has been found guilty in a court of law on charges of fraud and/or forgery, regardless of whether or not a prison term was imposed and despite such bidder, member or director's name not specifically appearing on the List of Tender Defaulters kept at National Treasury.

#### **4.14 Project budget Availability**

The base-line budget is currently available for operating expenditure for the project for the financial year 2022/2023.

Should funds no longer be available to pay for the execution of the responsibilities of this bid (NCDTSL01/2022) the NCDTSL may terminate the agreement at its own discretion or temporarily suspend all or part of the services by notice to the successful bidder who shall immediately make arrangements to stop the performance of the services and minimize further expenditure; provided that the successful bidder shall thereupon be entitled to payment in full for the services delivered, up to the date of cancellation or suspension.

#### **4.15 Joint Ventures, Consortiums and Trusts**

A trust, consortium or joint venture will qualify for points for their BBBEE status level as a legal entity, provided that the entity submits their originally certified BBBEE status level certificate.

A trust, consortium or joint venture will qualify for points for their BBBEE status level as an unincorporated entity, provided that the entity submits their consolidated BBBEE scorecard as if they were a group structure and that such a consolidated BBBEE scorecard is prepared for every separate bid.

Bidder(s) must submit concrete proof of the existence of joint ventures and/or consortium arrangements. The NCPT will accept signed agreements as acceptable proof of the existence of a joint venture and/or consortium arrangement.

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The joint venture and/or consortium agreements must clearly set out the roles and responsibilities of the lead partner and the joint venture and/or consortium party. The agreement must also clearly identify the lead partner, who shall be given the power of attorney to bind the other party/parties in respect of matters pertaining to the joint venture and/or consortium arrangement. Standard bidding documents (SBD) forms to be completed by each company.

c. Sub-contracting Bidder(s) who want to claim Preference points will have to comply fully with regulations 1 1 (8) and 1 1 (9) of the PPPFA Act with regard to sub-contracting.

The following is an extract from the PPPFA Act:

1 1 (8) "A person must not be awarded points for B-BBEE status level if it is indicated in the tender documents that such a tenderer intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a tenderer qualifies for, unless the intended subcontractor is an EME that has the capability and ability to execute the subcontract. "

1 1 (9) "A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher BBBEE status level than the person concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract. "

The Price and BBBEE points will be consolidated.

## **5. SECTION 2: SCOPE OF WORK**

The scope of work for the advisor will include the following, amongst other things. This initiative will return the weight bridges portfolio of the Department to sustainability or profitability and will optimise the value of these assets to the transport and Roads management systems in the province, while considering the trucks that are moving from Saldana Bay as well as within the Gasegonyana mining corridor are damaging the roads.

### **5.1 Feasibility Study Stage I:**

The advisor will be required to review previous study work and analysis in order to produce a comprehensive analysis to determine:

- Needs analysis (including status quo, when appropriate)
- Technical options analysis
- Project Due Diligence analysis
- Value Assessment
- Economic Valuation
- Procurement Plan

### **5.2 Feasibility Study Stage IIA:**

The advisor will be required to:

- Design a fair, equitable, transparent, competitive cost effective procurement process.
- Prepare bid documents, including draft PPP agreement.

### **5.3 Feasibility Study Stage IIB:**

The advisor will be required to:

- Pre – qualify parties

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- Issue request for proposals with draft PPP agreements
- Compare Bids with Feasibility Study and each other
- Prepare value for money report

#### 5.4 Feasibility Study Stage III:

The advisor will be required to:

- Negotiate with preferred bidders
- Finalise PPP agreement management plan

#### 5.5 Procurement

If, on the basis of the feasibility study, external procurement or one of more PPP solutions are decided on, and if the Department requires it, the advisor will be required to provide the necessary technical, legal and financial advisory support for the procurement of a partner or partners. This must be in compliance with *National Treasury's PPP Manual*, any applicable elements of the Department's supply chain management policy and these terms of reference.

The procurement deliverables are set out in Section 5 of the Feasibility Study Report.

#### 5.6 Feasibility study deliverables

The advisor is required to produce, in close liaison with the department, a comprehensive feasibility study for the construction of the JTG weight Bridge and the various options to optimise the portfolio of weight bridges by considering the implementation of alternative service delivery mechanisms.

The feasibility study needs to clearly demonstrate affordability for the full project cycle and, where applicable propose the optimal value-for-money and economic valuation solution for the Department to achieve its desired outcomes. The determination of the applicability of a value-for-money assessment and economic valuation in the feasibility study, and the feasibility study itself, is to be conducted in compliance with *National Treasury's PPP manual*, available on [www.ppp.gov.za](http://www.ppp.gov.za) or from the PPP/GTAC Unit.

#### 5.7 Components of the feasibility study

In line with *National Treasury's PPP Manual, Module 4: PPP Feasibility Study*, the feasibility study must include the following:

##### 5.7.1. Contents of the feasibility study report

###### Introduction

###### Submission requirements

- Covering letter from the accounting officer requesting TA I, where applicable
- Executive summary
- Introduction
- Project background
- Approach and methodology to the feasibility study, including, as appropriate, methodology for meeting all 'internal' and 'external' mechanism assessments as well as PFMA requisites

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**Section 1: Submission requirements: Needs analysis**

- Department's strategic objectives
- Budget
- Institutional analysis
- Output specifications
- Scope of the project

**Section 2 : Submission requirements: Technical solution options analysis**

- Technical options considered
- Evaluation and assessment of each technical option
- Identification of which solution option(s) may be procured as a PPP
- Recommendation of a preferred technical option

**Section 3: Submission requirements: Project due diligence**

- Legal aspects
- Use rights
- Regulatory matters
- Site enablement
- Socio-economic and BBBEE

**Section 4: Submission requirements: Value assessment as per the recommended option/s**

- Determination of the necessity to undertake an 'internal assessment' – i.e., construct a Public Sector Comparator (PSC)
- PSC model
  - Technical definition of project
  - Discussion on costs (direct and indirect) and assumptions made on cost estimates
  - Discussion on revenue (if relevant) and assumptions made on revenue estimates
  - BEE targets
  - Discussion on all model assumptions made in the construction of the model, including inflation rate, discount rate, depreciation, budgets and MTEF
  - Summary of results from the base PSC model: NPV
- PPP reference
  - Technical definition of project
  - Discussion on costs (direct and indirect) and assumptions made on cost estimates
  - Discussion on revenue (if relevant) and assumptions made on revenue estimates
  - Discussion on proposed PPP type
  - BEE targets
  - Proposed PPP project structure and sources of funding
  - Payment mechanism
  - Discussion on all model assumptions made in the construction of the model, including inflation rate, discount rate, depreciation, tax and VAT
  - Summary of results from the PPP-reference model: NPV
- Risk assessment
  - Comprehensive risk matrix for all project risks

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- Summary of the institution's retained and transferable risks
- The NPV of all risks (retained and transferable) to be added onto the base PSC model
- The NPV of all retained risks to be added onto the PPP reference model
- Risk-adjusted PSC model
  - Summary of results: NPV
- Risk-adjusted PPP-reference
  - Summary of results: NPV, key indicators
  - Sensitivity analysis
  - Statement of affordability
  - Statement of value for money
  - Recommended procurement choice
- Information verification
  - Summary of documents attached in Annexure 1 to verify information found in the feasibility study report

**Section 5: Submission requirements: Economic Valuation as per the recommended option/s**

- Introduction and valuation approach
- Assumptions
- Valuation results

**Section 6: Submission requirements: Procurement plan per the recommended option/s**

A procurement plan demonstrates that the institution has the necessary capacity and budget to undertake the procurement of the PPP. A procurement plan must contain at least the following:

- a project timetable for the key milestones and all approvals which will be required to take the project from TA:I to TA:III
- confirmation that sufficient funds in the institution's budget are available to take the project to TA:III and into contract implementation
- a list of any potential challenges to the project and a discussion on how these will be addressed by the project team and transaction advisor the best procurement practice and procedures suited to the project type and structure
- the governance processes to be used by the institution in its management of the procurement, especially regarding decision-making
- the project stakeholders and the extent of their involvement in the PPP
- the project team with assigned functions
- categories of information to be made available to bidders and how such information will be developed
- a list of required approvals from within and outside the institution
- a GANTT chart of the procurement process, including all approvals and work items necessary for obtaining these approvals (for procurement documentation as well as, for example, the land acquisitions and environmental studies to be procured by the institution)
- contingency plans for dealing with deviations from the timetable and budgets
- the bid evaluation process and teams
- an appropriate quality assurance process for procurement documentation
- the means of establishing and maintaining an appropriate audit trail for the procurement
- appropriate security and confidentiality systems, including confidentiality agreements, anti-corruption mechanisms, and conflict of interest forms to be signed by all project team members.

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**Annexures**

Annexure 1: Statements for information verification and sign off from each advisor to the project

Annexure 2: Letter of concurrence from Accounting Authority of Department

Annexure 3: PSC model, if applicable

Annexure 4: PPP reference model

Annexure 5: Risk assessment and comprehensive risk matrix

Annexure 6: Document list (list of all documents related to the project, where they are kept, and who is responsible for ensuring that they are updated)

**5.8 Presentation of the feasibility study**

The feasibility study, comprising all the above deliverables, must be compiled in a single report in Word format (with relevant annexures), and delivered as both electronic and hard copy documents. All financial models must be in Excel format, and clearly set out all assumptions made, sensitivity analyses carried out, and model outputs. The financial models must be sufficiently adaptable for use by others at later stages. The feasibility study must be presented with a thorough executive summary and must be accompanied by a PowerPoint presentation that encapsulates all the key features of the study. The executive summary and PowerPoint presentation must be compiled in such a manner that they can be used by the Department's management for decision-making purposes.

**5.9 Submission requirements for the feasibility study report and request for Treasury Approval: I**

If the Department decides to pursue a PPP solution for the management and construction of weight bridges in the Northern Cape Province for the Department of Transport Safety & Liaison, the feasibility study must be of a standard that will be accepted by National Treasury for the purposes of the Department obtaining Treasury Approval: I (TA I) in terms of Treasury Regulation 16 to the PFMA. The advisor is therefore advised to be fully familiar with the requirements of the PPP Unit as set out in *Module 4: PPP Feasibility Study of National Treasury's PPP Manual*.

**5.10 PPP procurement deliverables (if applicable)**

If the Department decides on a PPP procurement solution, the advisor is required to work with the Department to manage the procurement process for securing contracts with an external private party. All this needs to be in accordance with the systems and standards set out for PPPs in Treasury Regulation 16 and using *National Treasury's PPP Manual*.

The advisor will then have to deliver the following:

**5.11 Treasury Approval: 2 and administration of the bidding process**

The advisor must prepare a complete set of procurement documents, complying with public sector procurement law, policies and guidelines and in accordance with the tendering systems of the Department. The documentation must be consistent with the results of the feasibility study and enable the Department to obtain Treasury Approval: 2 in terms of Treasury Regulation 16.5.

The advisor must also give the Department all the necessary drafting, bidder communication and administrative support necessary for the entire procurement process to be conducted in accordance with law and policy, and to the highest standards of efficiency, quality and integrity.

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**5.11.1. Pre-qualification**

The advisor must design and administer a pre-qualification (request for qualification (RFQ)) process with the intention of:

- ensuring that the Department's exact interest is communicated clearly to the market
- determining the extent and nature of interest in the private sector
- Pre-qualifying a competitive number of competent consortia in an equitable and transparent way.

The desired result is that every pre-qualified bidder is capable of providing the facilities and services required by the Department.

The advisor must: prepare all the necessary RFQ documentation, including advertising material; set up and administer the process by which the Department can pre-qualify the parties; and help the Department evaluate and pre-qualify bidders.

**5.11.2. Bid evaluation criteria, bid process design and BBBEE requirements**

The advisor must: set up a bid evaluation system and criteria; design a suitable bid process that will ensure comparable bids; devise effective systems for communicating with bidders; inspire market confidence; and incorporate all BBBEE requirements for the project. If appropriate, a system that allows for variant bids may be designed.

**5.11.3. Request for proposals (RFP)**

The advisor must prepare an RFP document in accordance with best industry practice and *National Treasury's PPP Manual*, consistent with the results of the feasibility study. The RFP must concisely set out:

- the output specifications of the Department
- requirements for compliant bids
- a risk profile as established in the feasibility study
- the payment mechanism
- BBBEE targets
- the bid process
- evaluation criteria
- bidder communication systems.

**5.11.4. A draft PPP agreement**

The advisor must prepare a draft PPP agreement, based on *National Treasury's Standardised PPP Provisions*, reflecting the department's context. Close liaison with the Department's management and the PPP unit of the relevant treasury is required during drafting.

**5.11.5. Treasury Approval: 2**

The advisor must compile all the documentation necessary for the Department to obtain Treasury Views and Recommendations: 2 in terms of Treasury Regulation 309 to the MFMA to enable the procurement process to begin.

**5.12 Administration of the bidding process**

The advisor is to provide all necessary administrative support to the Department for the efficient and professional management of the bidding process. This includes managing a data room, facilitating

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structured engagement between the Department and bidders, helping the Department communicate effectively with bidders, and receiving bids.

### **5.13 Evaluation of bids, demonstrating value for money**

#### **5.13.1. Evaluation of bids**

The authorised staff of the Department, helped by the advisor, must open the bids at the time, date and location specified in the bidding documents, or as specified if the deadline has been extended. Representatives of bidders should be invited to attend the event where the names and addresses of bidders are announced and recorded.

A best and final offer (BAFO) process may be required. When costing this phase of work the advisor must allow for the possibility of administering BAFO processes. If there is no BAFO process, the advisor's remuneration will be adjusted accordingly.

#### **5.13.2. The value assessment report**

As directed, value for money must be demonstrated by comparing the net present value (NPV) of the bids received with the NPV of the PSC for the management and construction of weight bridges in the Northern Cape Province for the department of Transport Safety & Liaison, with a suitable adjustment for risk assumed.

The results of the bidding and evaluation of bids must be presented in a single value assessment report (with relevant annexures) that demonstrates clearly how value for money will be achieved with the preferred bidder. The report must clearly indicate the preferred and second-ranked bidders and provide motivations.

### **5.14 Agreement negotiations, PPP agreement management plan and Treasury Approval : 3**

The advisor must assist the Department in final negotiations with the preferred bidder. This will involve preparing suitable negotiations teams, categorising issues appropriately, developing timelines for completion, and planning negotiation tactics and processes for reaching agreement. The advisor must ensure that all agreements reached are incorporated into all the financial, commercial and legal documentation, and must assist with drafting the necessary and related correspondence.

The final terms of the agreements, each as negotiated with the preferred bidder, must be submitted by the Department, along with the PPP agreement management plan for the Department of Transport Safety And Liaison for the management and construction of weight bridges in the Northern Cape Province, for Treasury Approval: 3 in terms of Treasury Regulation 16.6. The advisor is responsible for compiling the necessary submissions for the Department to obtain this approval.

The advisor must, in close liaison with the Department, draft a comprehensive PPP agreement management plan for the Department. This will be in accordance with the provisions of the PPP agreement and with the relevant guidelines issued by National Treasury's PPP Unit.

The advisor must ensure that a comprehensive legal due diligence of the accounting officer has been completed. This will relate to legal compliance, competence and capacity to enter into the PPP agreement.

### **5.15 Agreement signature, close-out report and case study, and financial closure**

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The advisor must help the Department with all functions related to signing the final agreement, including obtaining the Treasury Approval III as per PFMA section 16.6 for contracts of a prescribed term.

The advisor must also compile a comprehensive close-out report and case study. These must follow the formats prescribed in *Module 5: PPP Procurement of National Treasury's PPP Manual*, and must incorporate any additional factors that may be required by the Department.

The close-out report will be a confidential document of the Department, and will also be logged with National Treasury. The case study will become a public document, made available on various government websites.

Financial closure signifies that all the procurement deliverables have been successfully completed, and that the advisor's work is finished, if applicable.

## **6. SECTION 3: ADVISOR SKILL, EXPERIENCE, REMUNERATION AND MANAGEMENT BY THE DEPARTMENT**

### **6.1 Necessary advisor skills and experience**

The advisor may comprise a team, managed by a single lead advisor. The members of the team will have both the skill and experience necessary to undertake the range of tasks set out in these terms of reference. Each individual on the team must be personally available to do the work as and when required. The lead advisor will be held accountable, in terms of the advisor contract, for ensuring project deliverables and for the professional conduct and integrity of the team. (See Annexure C: Draft advisor contract.)

The skills and experience required in the advisor are as follows:

- financial analysis, with relevant PPP, corporate and project finance experience
- PPP procurement and structuring
- legal, with relevant South African experience in the drafting and negotiating of PPP agreements
- BBBEE expertise with relevant PPP experience
- negotiations
- contract management
- Project management.

The TA must have highly specialised expertise including financial, legal and technical skills and must be led and managed by a single Lead Advisor as the Department will enter into a single contract with a single firm for the delivery of work set out in these Terms of Reference.

Included under the portfolio of the Lead Advisor will be Weight bridges Facilities management and Stakeholder management expertise. The Team members of the consortium will have both the skills and experience necessary to undertake the range of tasks as set out in this Terms of Reference. Each individual must be personally available to do in terms of the Contract, ensure scope of work deliverables, conduct themselves professionally and insure integrity of the team. The skills and experience required in the transaction advisor are as follows:

- Understanding of the Freight Logistics and Transport Systems

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REQUEST FOR PROPOSAL APPOINTMENT OF TRANSACTION ADVISORY SERVICES TO CONDUCT ASSESSMENT OF THE FEASIBILITY AND IMPLEMENTATION OF THE MANAGEMENT AND CONSTRUCTION OF WEIGHT BRIDGES IN THE NORTHERN CAPE PROVINCE

- Financial analysis, with relevant private sector and project finance and PPP experience; project structuring and modelling
- Limited recourse project finance and the structuring of transactions
- Public sector procurement (PFMA legislative environment)
- Legal, with relevant South African experience in the drafting and negotiating of private sector agreements
- Government legislative and regulatory frameworks, mandates, functions and roles
- Economic and Socio-economic expertise and experience
- BBBEE expertise with relevant experience
- Negotiations
- Contract negotiation, management and empowerment expertise
- Project Management

## 6.2 Remuneration schedule and disbursement arrangements

Remuneration of the advisor will be payable in South African Rands, on a fixed price for each of 5.1; 5.2; 5.3 and 5.4 above. The procurement portion of the work may or may not transpire at the end of the feasibility study, and should be costed accordingly.

### 6.2.1. Remuneration schedule

The following remuneration schedule is set for each part of the contract. Bidders should adhere to these in their proposals, within the total budget given.

#### Feasibility Study Phase II

Deliverable	Percentage
Signing of advisor contract as a mobilisation allowance and submission of project plan	10
Completion of Needs Analysis	10
Completion of Technical Options Analysis	20
Completion of Project Due Diligence Analysis	20
Completion of Value & Economic Assessment	10
Completion of Procurement Plan	10
Issuance by National Treasury of TA: I	10
Completion of Feasibility Study Phase II Report	10
Total	100

#### PPP procurement Phase III

Deliverable	Percentage
Mobilisation allowance	10
Issuance by National Treasury of TA:IIA	25
Issuance by National Treasury of TA:IIIB	25*
Issuance by National Treasury of TA:3	20
Success fee	10
Total	100
BAFO allowance (if applicable)	15% *

Deliverables completed per the remuneration schedule will be approved by the project officer, after which invoices may be submitted for payment as per the remuneration schedule. The Department will pay within 30 days of receiving the approved invoice.

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**6.2.2. Disbursement arrangements**

All claims for travel and other legitimate disbursement expenditure must be pre-approved by the project officer before they are incurred. An email system for these approvals will be set up when the advisor contract is signed. Pre-approved project expenditure on travel outside the province, related reasonable accommodation costs, expenditure on document reproduction, or any other legitimate pre-approved project disbursement expenditure will be reimbursed at cost. Payment will be made within 30 days of the Department receiving approved and substantiated invoices, and does not form part of the remuneration schedule. Bidders are required to propose a ceiling for such disbursements. This ceiling will not be evaluated as part of the price proposal.

**6.3 Management of Advisor by the Department**

The advisor will be appointed by the Accounting Authority of the Department.

A project officer has been appointed by the Accounting Authority to take full responsibility for managing the advisor's work and for ensuring delivery on the project. The project officer is Mr L Wolfe, and can be contacted at Cell: 0769923310 or lwolfe@ncpg.gov.za.

The project officer has established a project team to regularly engage with the advisor for efficiently completing the various delivery items. The project team will meet at least monthly and the advisor will report progress to these meetings, as instructed by the project officer.

The project officer will confirm that the advisor has satisfactorily completed each deliverable before invoices can be submitted to the Department for payment.

**6.4 General Conditions of Contract**

Any award made to a bidder(s) under this bid is conditional, amongst others, upon

- a) The bidder(s) accepting the terms and conditions contained in the General Conditions of Contract as the minimum terms and conditions upon which NCDTSL is prepared to enter into a contract with the successful bidder(s).
- b) The bidder submitting the General Conditions of Contract to NCDTSL together with its bid, duly signed by an authorised representative of the bidder.

**6.5 Contract Price Adjustment**

No contract price adjustments will be allowed once the award has been made unless so authorised by the accounting authority subject to extenuating conditions/circumstances.

**6.6 Service Level Agreement**

Upon award, the NCDTSL and the successful bidder will conclude a Service Level Agreement (SLA) regulating the specific terms and conditions applicable to the services being procured by the NCDTSL.

**6.7 Misrepresentation During The Lifecycle Of The Contract**

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The bidder should note that the terms of its Tender will be incorporated in the proposed contract by reference and that NCDTSL relies upon the bidder's Tender as a material representation in making an award to a successful bidder and in concluding an agreement with the bidder.

It follows therefore that misrepresentations in a Tender may give rise to service termination and a claim by NCDTSL against the bidder notwithstanding the conclusion of the Service Level Agreement between NCDTSL and the bidder for the provision of the Request for proposals for the appointment of transaction advisory services to conduct assessment of the feasibility and implementation of the management and construction of weight bridges in the Northern Cape Province, for the duration as determined in the Scope of Work in Section 2, subsection 5 of this TOR.

Service in question. In the event of a conflict between the bidder's proposal and the Service Level Agreement concluded between the parties, the Service Level Agreement will prevail.

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## **NORTHERN CAPE PROVINCIAL GOVERNMENT**

### **SAFETY AND LIAISON**

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

#### **NOTES**

The purpose of this document is to:

- (i) Draw special attention to certain general conditions applicable to government bids, contracts and orders.
- (ii) To ensure that customers are familiar with the rights and obligations of all parties involved in doing business with government.

In this document words in the singular also mean the plural and *vice versa*. Words in the masculine also mean 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 specific bid will be compiled separately for every bid (if applicable) and will supplement the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions in the SCC shall prevail.

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## GENERAL CONDITIONS OF CONTRACT

1

### Definitions

The following terms shall be interpreted as indicated:

**"Closing time"** means the date and hour specified in the bidding documents for the receipt of bids. Within the Northern Cape Province the closing hour will be 11:00 as per Post Office official time.

**"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.

**"Contract price"** means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.

**"Corrupt practice"** means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the acquisition process or in contract execution.

**"Countervailing duties"** are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.

**"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.

**"Day"** means a calendar day.

**"Delivery"** means delivery in compliance of the conditions of the contract or order.

**"Delivery ex stock"** means immediate delivery directly from stock actually on hand.

**"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.

**"Dumping"** occurs when a private enterprise abroad markets its goods on its 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.

**"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 limited to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.

**"Fraudulent practice"** means a misrepresentation of facts in order to influence an acquisition 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.

**"GCC"** means the General Conditions of Contract.

**"Goods"** mean all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.

**"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 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.

**"Local content"** means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.

**"Manufacture"** means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.

**"Order"** means an official written order issued for the supply of goods or works or the rendering of a service.

**"Project site"** where applicable, means the place indicated in bidding documents.

**"Purchaser"** means the organization purchasing the goods.

**"Republic"** means the Republic of South Africa.

**"SCC"** mean the Special Conditions of Contract.

**"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.

**"Written or in writing"** means handwritten in ink or any form of electronic or mechanical writing. Faxed bid documents will not be accepted as well as e-mailed bid documents, unless stated as such in the invitation to bid or contract.

## **2 Application**

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.

Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.

Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

## **3 General**

Unless otherwise indicated in bid 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.

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.

## **4 Standards**

The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.

## **5 Use of Contract documents and information**

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.



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.

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.

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**

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**

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.

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.

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 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

a cashier's or certified cheque.

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. The above excludes construction contracts/road repairs, civil mechanical and electrical works.

## **8 Inspections, tests and analyses**

All pre-bidding testing will be for the account of the bidder.

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.

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 arrangement with testing authority concerned.

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.

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.

Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements shall be rejected.

Any contract supplies may on or after delivery be inspected, tested or analysed 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 her/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.

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**

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.

The packing, marking and documentation within and outside the packages shall comply strictly with 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**

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.

**11 Insurance**

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 SCC.

**12 Transportation**

Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.

**13 Incidental services**

The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:

- performance or supervision of on-site assembly and/or commissioning of the supplied goods;
- furnishing of tools required for assembly and/or maintenance of the supplied goods;
- furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
- 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
- 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.

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**

As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information to spare parts manufactured or distributed by the supplier:

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  
in the event of termination of production of the spare parts:

advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to acquire needed requirements; and  
following such termination, furnishing at no cost to the purchaser, the blueprints, drawings and specifications of the spare parts, if requested.

## **15 Warranty / Guarantee**

The supplier warrants or guarantees (which applicable to be indicated) 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.

This warranty of guarantee (which applicable to be indicated) 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.

The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty/guarantee.

Upon receipts 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.

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**

The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.

The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of other obligations stipulated in the contract.

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.

Payment will be made in rand values unless otherwise stipulated in SCC.

## **17 Prices**

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**

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**

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**

The supplier shall notify the purchaser in writing of all subcontracts awarded under this contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

**21 Delays in the supplier's performance**

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.

If 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 of performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

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.

The right is reserved to acquire 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 to the place where the supplies are required, or the supplier's services are not readily available.

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.

Upon delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without cancelling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

**22 Penalties**

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 of performance. The purchaser may also consider termination of the contract pursuant to GCC clause 23.

**23 Termination for default**

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:

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.

if the supplier fails to perform any other obligation(s) under the contract; or

if the supplier, in the judgement of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

In the event the purchaser terminates the contract in whole or in part, the purchaser may acquire, 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.

**24 Anti-dumping and countervailing duties and rights**

When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provincial payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidised 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**

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 (3) 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,

27.5.1 the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and

27.5.2 the purchaser shall pay the supplier any monies due to the supplier.

**28        Limitation of liability**

28.1        Except in cases of criminal negligence or will full misconduct and in the case of infringement pursuant to clause 6;

28.1.1      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 damaged to the purchaser; and

28.2.1      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**

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**

The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.

**31        Notices**

Every written acceptance of a bid shall be posted to the supplier concerned by registered mail and any other notice to her/him shall be posted by ordinary mail to the address furnished in the bid or to the address notified later by her/him in writing and such posting shall be deemed to be proper service of such notice.

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**

A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees and other such levies imposed outside the purchaser's country.

A local supplier shall be entirely responsible for all taxes, duties, license fees and other such levies incurred until delivery of the contracted goods to the purchaser.

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 certificated, submitted by the bidder. This certificate must be an original issued by the South Africa Revenue Service.