

**PART A  
INVITATION TO BID**

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)</b>					
BID NUMBER:	DOH (FS) 05/2023/2024	CLOSING DATE:	06 OCTOBER 2023	CLOSING TIME:	11H00
<b>TERMS OF REFERENCE FOR THE APPOINTMENT OF THE TRANSACTION ADVISOR OR TEAM OF TRANSACTION ADVISORS TO CONDUCT A PUBLIC PRIVATE PARTNERSHIP PROCUREMENT OF JOINT LOCATION FACILITIES AT THE PELONOMI TERTIARY HOSPITAL AND UNIVERSITAS ACADEMIC HOSPITAL FOR THE FREE STATE DEPARTMENT OF HEALTH.</b>					
DESCRIPTION	PERIOD: DATE OF SIGNING OF CONTRACT FOR TWENTY-FOUR (24) MONTHS.				
<b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)</b>					
<b>DEPARTMENT OF HEALTH FREE STATE</b>					
<b>GROUND FLOOR, BOPHELO HOUSE, BLOCK C-WEST, OPPOSITE MAIN DOOR.</b>					
<b>C/O CHARLOTTE MAXEKE STREET AND HARVEY ROAD, BLOEMFONTEIN.</b>					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>		
CONTACT PERSON	Me. CJB Naicker Mr. TE Mahlasi		CONTACT PERSON	Me. MP Mosia Mr. BM Maharaswa	
TELEPHONE NUMBER	051 408 1160 / 1707		TELEPHONE NUMBER	051 408 1298 / 1887	
FACSIMILE NUMBER	N/A		FACSIMILE NUMBER	N/A	
E-MAIL ADDRESS	MahlasiTE@fshealth.gov.za NaickerCJB@fshealth.gov.za		E-MAIL ADDRESS	MaharasM@fshealth.gov.za MosiaMP@fshealth.gov.za	
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX]  <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		TICK APPLICABLE BOX]  <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]
<b>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE A BRANCH IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
<b>IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.</b>					

## PART B

### TERMS AND CONDITIONS FOR BIDDING

<b>1. BID SUBMISSION:</b>
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2. <b>ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED– (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.</b>
1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
1.4. <b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7.1).</b>
<b>2. TAX COMPLIANCE REQUIREMENTS</b>
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE <a href="http://WWW.SARS.GOV.ZA">WWW.SARS.GOV.ZA</a> .
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED; EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

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

SIGNATURE OF BIDDER:

.....

CAPACITY UNDER WHICH THIS BID IS SIGNED:

.....

(Proof of authority must be submitted e.g. company resolution)

DATE:

.....

## **EXPLANATORY MEETING CERTIFICATE**

BID NUMBER: DOH (FS) 05/2023/2024

Attendance list number: \_\_\_\_\_

**TERMS OF REFERENCE FOR THE APPOINTMENT OF THE TRANSACTION ADVISOR OR TEAM OF TRANSACTION ADVISORS TO CONDUCT A PUBLIC PRIVATE PARTNERSHIP PROCUREMENT OF JOINT LOCATION FACILITIES AT THE PELONOMI TERTIARY HOSPITAL AND UNIVERSITAS ACADEMIC HOSPITAL FOR THE FREE STATE DEPARTMENT OF HEALTH.**

### **Attendance of the explanatory meeting is Compulsory**

An official of the Department must sign this certificate at the explanatory meeting. No certificate will be signed outside the meeting. The original certificate must be included in the bid document and will not be accepted after the closing time and date of the bid.

**EXPLANATORY MEETING DATE: 13 September 2023**

**TIME: 10H00**

**VENUE:** Auditorium, First Floor  
Bophelo House  
CNR Charlotte Maxeke and Harvey Road  
Bloemfontein, 9301

**CONTACT PERSON/S:** Mr. Maharaswa: 051- 408 1887  
Me. Mosia: 051-408 1298

This is to certify that \_\_\_\_\_ in his/her capacity as  
\_\_\_\_\_ of the company \_\_\_\_\_ has attended the  
explanatory meeting on the \_\_\_\_\_ day of \_\_\_\_\_ 2023 and is therefore  
familiar with circumstances and the scope of the items to be supplied.

\_\_\_\_\_  
**SIGNATURE /DEPARTMENTAL  
OFFICIAL**

\_\_\_\_\_  
**RANK**

\_\_\_\_\_  
**SIGNATURE OF REPRESENTATIVE  
OF COMPANY**

\_\_\_\_\_  
**DATE**

OFFICIAL DATE  
STAMP

\* Note: Only one certificate per company



health

Department of  
Health  
FREE STATE PROVINCE

**TERMS OF REFERENCE FOR THE APPOINTMENT OF THE  
TRANSACTION ADVISOR OR TEAM OF TRANSACTION ADVISORS  
TO CONDUCT A PUBLIC PRIVATE PARTNERSHIP PROCUREMENT  
OF JOINT LOCATION FACILITIES AT THE PELONOMI TERTIARY  
HOSPITAL AND UNIVERSITAS ACADEMIC HOSPITAL FOR THE  
FREE STATE DEPARTMENT OF HEALTH**

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**PERIOD: FROM DATE OF SIGNING OF CONTRACT FOR TWENTY-FOUR (24)  
MONTHS**

**CONTACT PERSON: Mr. BM. MAHARASWA**

**TEL: 051 408 1887**

**EMAIL ADDRESS: MaharasM@fshealth.gov.za**

(4)

**TERMS OF REFERENCE FOR THE APPOINTMENT OF THE TRANSACTION ADVISOR OR TEAM OF  
TRANSACTION ADVISORS TO CONDUCT A OF PUBLIC PRIVATE PARTNERSHIP PROCUREMENT FOR JOINT  
LOCATION FACILITIES AT THE PELONOMI TERTIARY HOSPITAL AND UNIVERSITAS ACADEMIC HOSPITAL  
FOR THE FREE STATE DEPARTMENT OF HEALTH**

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<b>Bid reference:</b>	<b>DOH (FS) 05/2023/2024</b>
<b>Contracting authority</b>	Free State Department of Health
<b>Name of project</b>	“TRANSACTION ADVISORY SERVICES TO CONDUCT A PROCUREMENT OF PUBLIC PRIVATE PARTNERSHIP FOR JOINT LOCATION FACILITIES AT THE PELONOMI TERTIARY HOSPITAL AND UNIVERSITAS ACADEMIC HOSPITAL FOR THE FREE STATE DEPARTMENT OF HEALTH”
<b>TA contract</b>	TWENTY-FOUR MONTHS (24) FROM DATE OF SIGNING OF CONTRACT
<b>Purpose</b>	To conduct a procurement of Public Private Partnership for joint location facilities at the Pelonomi Tertiary Hospital and Universitas Academic Hospital for the Free State Department of Health

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## 1. INTRODUCTION

The Free State Department of Health has identified joint location at Pelonomi Tertiary Hospital and Universitas Academic Hospital through a Public-Private Partnership (PPP). This project is also in line with the Free State Department of Health strategic vision of increasing life expectancy through health system effectiveness, driving system change and ensuring sustainable quality services.

The Free State Provincial Government wishes to explore the feasibility of financing and operating of the established joint location as a Public-Private Partnership (PPP) in terms of relevant National Treasury Regulations to the Public Finance Management Act, 1999 (PFMA). The proposed project will follow the National Treasury's PPP Standardization and Manual, which potential Transaction Advisors are required to be familiar with.

The Free State Provincial Government thus intends to procure the services of an experienced Transaction Advisor/s to assist it through the regulated procurement phase of the PPP project cycle.

## 2. BACKGROUND

The proposed PPP will be in a form of finance, operate and transfer. In this case, the Private Partner will upgrade all the identified buildings and machinery, maintain, service and replace where required for the duration of the contract. Skills transfer in this project is critical and is the ultimate goal of the Department to have the Private Party to transfer skills to the health professionals and FS Health can retain staff and the Private Partner provide continuous training and support. This will be dealt with in a new Service Level agreement after the expiry of the contract.

For a PPP to be considered, substantial Private Party investment must be possible and substantial risk transfer to the Private Sector should be meaningful.

## 3. BACKGROUND DOCUMENTATION AND PREPARATORY WORK

To this end, the Free State Department of Health appointed a transaction advisor who has conducted a feasibility study and is in the process of obtaining Treasury Approval: 1. The transaction advisor will have to become familiar with all background documentation and preparatory work conducted to date by the transaction advisor for this project. The transaction advisor can review the conducted feasibility study, ask questions and seek clarity where needed.

## 4. OBJECTIVE

The overall objective of this assignment is to undertake a PPP procurement that will provide recommendations to the Free State Department of Health; as well as to obtain required National Treasury approvals.

These terms of reference invite proposals from Transaction Advisors representing a team of suitably qualified and experienced financial, technical and legal advisors to help the Free State Department of Health:

- **Milestone:** When Treasury Approval 1 (TA1) is received, the TAs will be required to continue with the PPP process and provide advisory services for the appropriate procurement of the project.

Consideration will only be given to Bidders with demonstrated professional knowledge and experience in the following subjects:

- Legal;
- South African PPP framework;
- Infrastructure Project finance;
- Contract structuring and drafting;
- Technical, relevant discipline;
- Stakeholder engagement and communications;
- Economic and Financial Analysis;
- PPP transaction structuring and implementation; and
- Preparation of the documents for and running a PPP procurement process in line with the National Treasury Regulation PPP Manual.
- Public Finance Management Act

- South African Health Care systems and facilities management

Additional areas of competence are outlined in the bid documents.

Free State Department of Health requires the services of a competent team of professionals to advise on the best way of financing, operating and maintaining the established joint location at Pelonomi Tertiary Hospital and Universitas Academic Hospital.

## 5. SCOPE OF WORK

Due to the nature of PPP projects, the scope of work provided is milestone-based and the Free State Department of Health cannot be held liable for the indicative times provided. The scope of work for the transaction advisor is:

### 5.1. Milestone: PPP procurement

The Transaction Advisors will continue with Phase 3 of PPP project cycle and provide the necessary technical, legal and financial requirements and support for the procurement of a PPP. This will include the preparation of all required documents required for Treasury Approvals.

The following are the tasks and activities associated with procurement plan deliverables:

#### Task 1 - INCEPTION MEETING AND PROJECT PLAN AND SCHEDULE

This task category serves to ensure that the Free State Department of Health and the Transaction Advisor fully understand how the assignment will proceed. This will involve the development of a detailed Project Inception Plan that will document the organization's scope, financial commitment, schedule and responsibility for all tasks to be accomplished within the assignment. This initial document will also serve as a management tool for allowing all involved parties to follow the progress of the Transaction Advisor's efforts.

**Activity 1.1 – Prepare and Submit A Project Plan** - Within two weeks of signing the contract for the work, the Transaction Advisor shall submit and present to the Free State Department of Health a detailed Project Plan and Schedule. This plan and schedule shall present sufficient and detailed information concerning the Transaction Advisor's approach to accomplishing the assignment to allow effective planning and scheduling of all activities required to support the Transaction Advisor's efforts.

#### Task 2 - INITIAL DATA COLLECTION AND PROJECT STEERING MEETINGS

Through this task category, the Transaction Advisor will seek and secure all existing and available information concerning the Project. The Transaction Advisors will also become acquainted with the expected scope of the Project and the objectives of the Free State Department of Health in undertaking the proposed Project. This will be accomplished through the following activities:

**Activity 2.1 - Prepare and Submit Requested Information Matrix** - Prior to the kick-off meeting identified in Activity 2.2 below, the Transaction Advisors will prepare and submit to the Free State Department of Health a preliminary list of information required to successfully accomplish the assignment.

**Activity 2.2 – Kick-Off Meeting and Project Steering Meetings** - The Transaction Advisor shall travel to the Free State Department of Health for a kick-off meeting with the department 1) prepare the Inception Plan and Schedule; 2) gather initial Project information; and 3).

**Activity 2.3 – Acquire Initial Data** - The Transaction Advisor shall acquire all relevant reports and data concerning existing feasibility studies that were conducted by prior consultants. The Transaction Advisor will be responsible to review the acquired documents, identify the gaps and present a revised feasibility report (if necessary) noting the specific requirements detailed in this TOR. At a minimum, this information shall include:

- Reviewing and updating reports and data pertaining to current Project service area;



- Plans and physical/technical data related to the existing infrastructure and services in the Project service area;
- Any previous feasibility analyses or investigations relevant to the Project service area
- All government regulations and requirements applicable to the Project including all procurement requirements and development/PPP guidelines established by the National Treasury.

All delays in receiving the data requested shall be promptly communicated by the Lead Transaction Advisor to the Project Officer together with the associated impacts on the progress of the project.

**Activity 2.4 - Identify Data Needs and Gaps** - Based on the initial investigation and acquisition of Project data and information, the Transaction Advisors will identify additional data that must be developed to successfully complete the assignment. The identification of data needs and gaps will also include an indication of the assistance to be provided by the Free State Department of Health securing this additional information.

**Activity 2.5 – Prepare and Submit Progress Reports** – The Transaction Advisors shall prepare and submit progress reports for each milestone of this contract. Each progress report shall be delivered within 30 days of the end of each milestone. The report shall include 1) actual progress of the Project, 2) actual expenditure during the milestone achieved, 3) compliance with timelines, 4) abridged project plan or revised project plan and 5) any other information that may be reasonably requested from the Transaction Advisor.

## 6. PPP PROCUREMENT DELIVERABLES

If the Free State Department of Health decides to pursue a PPP procurement solution, the Transaction Advisors will be required to work with the Free State Department of Health to manage the procurement process for securing contracts with a 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 and Standardized PPP Provisions.

The Transaction Advisors will then have to deliver the following:

### 6.1. Treasury Approval: IIA and administration of the bidding process

The Transaction Advisors 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 Free State Department of Health. The documentation must be consistent with the results of the feasibility study and enable the Free State Department of Health to obtain Treasury Approval II: A (TA: IIA) in terms of Treasury Regulation 16.

The Transaction Advisors must also give the Free State Department of Health all the necessary drafting, bidder communication and administrative support necessary for the entire procurement process to be conducted.

#### 6.1.1. Pre-qualification

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

- ensuring that the Free State Department of Health's exact interest is communicated clearly to the market;
- determining the extent and nature of interest in the private sector; and
- 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 Free State Department of Health. The Transaction Advisor must prepare all the necessary RFQ documentation, including advertising material; set up and administer the process by which the Department of Health can pre-qualify the parties; and help the Department of Health evaluate and pre-qualify bidders.

#### 6.1.2. **Payment mechanism**

The Transaction Advisors must develop a rigorous payment mechanism that captures the elements of risk transfer established in the feasibility study.

#### 6.1.3. **Bid evaluation criteria, bid process design and Specific goals requirements**

The Transaction Advisors 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 B-BBEE requirements for the project. If appropriate, a system that allows for variant bids may be designed. This must include an evaluation manual.

#### 6.1.4. **Request for proposals (RFP)**

The Transaction Advisor must prepare an RFP document in accordance with best industry practice and the National Treasury's PPP Manual, consistent with the results of the feasibility study.

The RFP must concisely set out:

- the output specifications of the Free State Department of Health
- requirements for compliant bids;
- a risk profile as established in the feasibility study;
- the payment mechanism;
- BEE targets;
- the bid processes;
- evaluation criteria; and
- bidder communication systems.

#### 6.1.5. **A draft PPP agreement**

The Transaction Advisors must prepare a draft PPP agreement, based on National Treasury's Standardized PPP Provisions. Close liaison with the Free State Department of Health PPP Management Unit and the PPP Unit of the relevant treasury is required during drafting ordinance with law and policy, and to the highest standards of efficiency, quality

#### 6.1.6. **Treasury Approval: IIA**

The Transaction Advisors must compile all the documentation necessary for the Free State Department of Health to obtain Treasury Approval: IIA (TA: IIA) in terms of Treasury Regulation 16 to the PFMA to enable the procurement process to begin.

#### 6.1.7. **Administration of the bidding process**

The Transaction Advisor is to provide all necessary administrative support to the Free State Department of Health for the efficient and professional management of the bidding process. This includes managing a data room, facilitating structured engagement between the Free State Department of Health and bidders, helping the Free State Department of Health communicate effectively with bidders, and receiving bids.

### 6.2. **Evaluation of bids, demonstrating value for money and Treasury Approval: IIB**

#### 6.2.1. **Evaluation of bids**

The authorized staff of the Free State Department of Health, helped by the transaction advisor, must evaluate bids, following guidance given in Module 5: PPP Procurement of National Treasury's PPP Manual.

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

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### **6.2.2. The value-for-money report and Treasury Approval: IIB**

Value for money must be demonstrated by comparing the net present value (NPV) of the bids received with the NPV of the PSC for Joint Location Facilities at Pelonomi Tertiary Hospital and Universitas Academic Hospital, with a suitable adjustment for the risk assumed.

The results of the bidding and evaluation of the bids must be presented in a single value-for-money 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.

The value-for-money report must be in a suitable format and of a suitable standard for the Free State Department of Health to get Treasury Approval: IIB (TA: IIB) in terms of Treasury Regulation 16 to the PFMA. The guidance is given in Module 5: PPP Procurement of National Treasury's PPP Manual should be followed.

### **6.2.3. PPP agreement negotiations, PPP agreement management plan and Treasury Approval: III**

The Transaction Advisors must assist the Free State Department of Health in final negotiations with the preferred bidder. This will involve preparing suitable negotiations teams, categorizing issues appropriately, developing timelines for completion, and y and integrity. planning negotiation tactics and processes for reaching an agreement. The transaction 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 agreement, each as negotiated with the preferred bidder, must be submitted by the Free State Department of Health, along with the PPP agreement management plan for the Pelonomi Tertiary Hospital and Universitas Academic Hospital joint location PPP for Treasury Approval: III (TA:III) in terms of Treasury Regulation 16. The transaction advisor is responsible for compiling the necessary submissions for the Free State Department of Health to obtain this approval. (See Treasury Regulation 16.6.1(a).)

The Transaction Advisors must, in close liaison with the Free State Department of Health's- Project Officer and the team, draft a comprehensive PPP agreement management plan for the Free State Department of Health. (See Treasury Regulation 16.6.1(b).) This will be in accordance with the provisions of the PPP agreement and following the guidance given in Module 6: Managing the PPP Agreement of National Treasury's PPP Manual.

The Transaction Advisor must ensure that a comprehensive legal due diligence of the accounting officer/authority has been completed. This will relate to legal compliance, competence and capacity to enter into the PPP agreement. (See Treasury Regulation 16.6.1(c).)

## **6.3. PPP agreement signature, close-out report and case study, and financial closure**

The Transaction Advisor must help the Free State Department of Health with all functions related to signing the final agreement. The transaction 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 Free State Department of Health. The close-out report will be a confidential document of the Free State Department of Health, and will also be lodged 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 transaction advisor's work is finished, if applicable.

## **7. Transaction advisor skill, experience, remuneration and management by the Free State Health**

### **7.1. Necessary transaction advisor skills and experience**

The transaction advisor will 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 transaction advisor contract, for ensuring project deliverables and for the professional conduct and integrity of the team. The skills and experience required in the transaction advisor are as follows:

- Financial analysis, with relevant PPP and project finance experience
- PPP procurement and structuring;
- Legal, with relevant South African experience in the drafting and negotiating of PPP agreements;
- Bee expertise with relevant PPP experience;



- Negotiations;
- Contract management; and
- Project management.

## 7.2. Remuneration schedule and disbursement arrangements

Remuneration of the Transaction Advisor will be payable in South African Rands on a fixed price for each of the activities and deliverables described in the sections above.

Payment will be by milestones. The procurement portion of the work may or may not transpire at the end of the feasibility study, and should be costed accordingly.

Conditions that may require Free State Department of Health to pay additional cost for the relevant services rendered will be deemed non-responsive and not priced properly. This will lead to disqualification.

## 7.3. 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.

### Milestone: PPP procurement

Deliverable	Percentage
Obtaining Treasury Approval IIA	20%
Issuing of the RFQ and Evaluation (Evaluation Report)	10%
Issuing of the RFP documents to the market and Evaluation (Evaluation Report)	10%
Obtaining National Treasury of TA: IIB	20%
Negotiations and aligning the agreed upon agreement and preparing the contract	10%
Negotiations and Obtaining National Treasury of TA:3	20%
PPP Manual, Closeout Report and the case study	10%
Total	100%

Deliverables completed per the remuneration schedule will be presented to the Free State Department of Health Project Team and thereafter signed off by the project officer, after which invoices may be submitted for payment as per the remuneration schedule. The Free State Department of Health will pay within 30 days of receiving the approved invoice.

## 7.4. Disbursement arrangements

All claims for travel and other legitimate disbursement expenditure must be pre-approved by the project officer. 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 Free State Department of Health receiving approved and substantiated invoices and does not form part of the remuneration

schedule. Bidders are required to propose a ceiling for such disbursements. All travel must be priced into this contract and declared up from inclusive of any international experts.

#### **7.5. Management of transaction advisor by the Free State Department of Health**

The Transaction Advisors will be appointed in writing by the Accounting Officer of Free State Department of Health. A project officer has been appointed by the Accounting Officer of the Free State Department of Health to take full responsibility for managing the Transaction Advisor's work and for ensuring delivery on the project. The project officer has established a project team to engage regularly with the transaction advisor for efficiently completing the various delivery items. The project team will meet at least monthly and the Transaction Advisor will report progress at these meetings as per the signed agreement. The Project Officer will confirm that the transaction advisor has satisfactorily completed each deliverable before invoices can be submitted to the Free State Department of Health for payment.

### **8. RULES OF BIDDING, BID SUBMISSION REQUIREMENTS AND BID EVALUATION**

#### **8.1. Rules of bidding**

- 8.1.1. The transaction advisor must be a single legal entity with all other necessary expertise secured via subcontract, or under a joint venture arrangement.
- 8.1.2. The Free State Department of Health will enter into a single contract with a single firm for the delivery of the work set out in these terms of reference.
- 8.1.3. Foreign firms providing proposals must become familiar with local conditions and laws, and take them into account in preparing their proposals.
- 8.1.4. Bids must be submitted in South African Rands, on a fixed price basis.
- 8.1.5. The costs of preparing bids and of negotiating the contract will not be reimbursed.
- 8.1.6. The Free State Department of Health is not bound to accept any of the bids submitted and reserves the right to call for best and final offers from shortlisted bidders before final selection.
- 8.1.7. The Free State Department of Health reserves the right to call interviews with short-listed bidders before final selection.
- 8.1.8. The Free State Department of Health reserves the right to negotiate a price with the preferred bidder.
- 8.1.9. 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 [MosiaMP@fshealth.gov.za](mailto:MosiaMP@fshealth.gov.za) and or [MaharasM@fshealth.gov.za](mailto:MaharasM@fshealth.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.
- 8.1.10. The Free State Department of Health reserves the right to return late bid submissions unopened. Late submissions will be not be accepted.
- 8.1.11. Firms may not contact the Free State Department of Health or the relevant treasury on any matter pertaining to their bid from the time when bids are submitted to the time the transaction advisor contract is awarded. Any effort by a bidder to influence bid evaluation, bid comparisons or bid award decisions in any manner, may result in rejection of the bid concerned.

#### **8.2. BID SUBMISSION REQUIREMENTS**

The scope of work is divided into these two parts. The Transaction Advisors needs to submit a single bid, in the formats prescribed in these terms of reference. (Reference to 'the transaction advisor' includes the entire advisory team, or relevant members, under the management of a single Lead Advisor who shall contract with the Free State Department of Health.

The proposed Pelonomi Tertiary Hospital and Universitas Academic Hospital joint location PPP is milestone-based project and the bidders are encouraged to quote as such. Preferable, the TA3 and financial closure should be achieved within 24 months Bidders are encouraged to submit shorter estimated timelines, which will be viewed as favorable.

Transaction advisors are required to submit their proposals in two envelopes in the following format:

#### 8.2.1. Envelope 1: Technical proposals

- Marked with the name of the transaction advisor.
- Titled 'Technical and B-BBEE proposal: Transaction advisor services to Free State Department of Health for PPP procurement at Pelonomi Tertiary Hospital and Universitas Academic Hospital joint location.

This envelope must contain at least the following:

##### 8.2.1.1. A covering letter signed by the lead transaction advisor, among others:

- accepting the rules of bidding (**refer to Annexure A attached**) evaluation of bids, and bid evaluation criteria set out in the terms of reference
- A covering letter signed by the Bidder (or relevant Lead Advisor: Accepting the rules of bidding (**refer to Annexure A attached**), evaluation of bids, and bid evaluation criteria set out in the terms of reference;
- Bidders must make sure that they are tax compliant and attach a tax pin or CSD report.
- Information on, and motivation for the Lead Advisor and team leaders setting out their personal information and attaching the certified copies of their qualifications.
- Suitability for this assignment; Relevant skills and experience. For each relevant experience cited, outline the precise role the lead transaction advisor played, the role of the firm, contract duration, contract outcomes, and contract value; Indicate availability to perform the work.

##### 8.2.1.2. Information on and motivation for the lead transaction advisor, attaching his or her curriculum vitae (CV), 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 transaction 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 transaction advisor's other known professional commitments for the forthcoming two years.

##### 8.2.1.3. Names 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 and to each specified technical evaluation element set out in the technical scorecard
- the suitability of each person for the proposed roles in terms of his or her relevant skills and experience
- the availability to perform the work
- one-page resumés of each person highlighting responsibilities held for experience relevant to this assignment in the last five years
- the black South African professionals on the team, clearly showing the roles they will play.

**\* PLEASE NOTE THAT THE CV'S SUBMITTED IN THE PROPOSAL SHOULD BE THE PEOPLE WHO WILL WORK ON THE CONTRACT. IF A SUBSTITUTION NEEDS TO BE MADE, THE QUALIFICATION OF THE INDIVIDUAL NEEDS TO BE EQUIVALENT OR BETTER THAN THE PREDECESSOR. THIS SUBSTITUTION NEEDS TO BE SUBMITTED TO THE DEPARTMENT FOR APPROVAL BEFORE HE/SHE COMMENCES WITH WORK ON THIS CONTRACT. THE FREE STATE DEPARTMENT OF HEALTH HAS EXPERIENCED CASES WHEREBY CV'S FOR SENIOR OFFICIALS ARE SUBMITTED AND THE WORK IS THEN CARRIED OUT BY JUNIOR STAFF RESULTING IN SUBSTANDARD LEVELS OF EXPERIENCE IN THE CONTRACT. THE FULL PROJECT TEAM SHOULD BE DECLARED UPFRONT AND PRICED ACCORDINGLY. IF IT IS FOUND THAT THE PEOPLE WHOSE CV'S ARE PRESENTED ARE NOT CONDUCTING THE WORK, THE FREE STATE DEPARTMENT OF HEALTH RESERVES THE RIGHT TO IMPLEMENT THE TERMINATION OF THE CONTRACT AND THE CONTRACTOR WILL BE LIABLE FOR ALL MONETARY LOSSES AS A RESULT OF NON-COMPLIANCE TO THIS CONTRACT.**

**8.2.1.4.** The B-BBEE proposal, cross-referenced to each element of the B-BBEE scorecard clearly setting out:

- The number and percentage of black professionals playing leading roles in the transaction advisor consortium;
- The percentage of black equity in the companies making up the consortium, with a weighted average calculated on the percentage of work to be performed by each company, presented in the following format;

Column B of the example provided in the National Treasury's PPP manual must show the percentage of ownership by individuals who are actively involved in the management of the specific company. To verify this, the proposal must be accompanied by supporting documents;

- A credible plan for structuring effective B-BBEE for the PPP, with the necessary skill and experience in the team, substantiated by references; and
- A credible plan for skills transfers within the consortium to directly benefit black professionals inexperienced in PPPs.

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

- the transaction 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 transaction advisor proposes to manage the set of deliverables outlined in the terms of reference;
- a proposed outline work plan with a timetable for delivery;
- how the transaction advisor members will be supervised;
- how reporting to the project officer will take place; and
- any innovative ideas on how the whole assignment can best achieve its objectives.

**The technical and B-BBEE envelope must not include any price proposal. Including price proposals will nullify the bid.**

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

- Marked with the name of the transaction advisor.
- Titled: 'Price proposal: Transaction advisor services to Free State Department of Health for PPP procurement for Pelonomi Tertiary Hospital joint location.

This envelope must contain:

**8.2.2.1.** Proposed remuneration for professional fees:

- A remuneration proposal in the remuneration format outlined in 8.3 above, giving a 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.

**8.2.2.2.** Cash flow earmarked for each member of the consortium, indicating how black people will benefit. The fee-sharing structure must reflect the actual work, risk and responsibility assumed by each member.

**8.2.2.3.** 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.

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

## 9. BID EVALUATION

- 9.1. The technical proposal will be evaluated as per the criteria in Table 1 below. Bidders must ensure that all required information is included in their bid as per Submission Requirements (9.2 above). Free State Department of Health may require clarification meetings as part of the evaluation of the submitted bids.
- 9.2. A score of 0 (zero) will be assigned where the submitted CV is not accompanied by certified copies of the required qualifications (not older than 6 months) (i.e. non-compliant CVs); proof that the indicated qualifications exists.
- 9.3. A score of 0 (zero) will be assigned where qualifications obtained from foreign institutions are not accompanied by proof of a certified SAQA accreditation certificate (non-compliance with the requirements).
- 9.4. Bidders must comply with all South African laws; including the Immigration Act 13 of 2002 (as amended) and Employment Services Act 4 of 2014 (as amended).
- 9.5. Prior to appointment, the recommended bidder may be required to submit additional supporting documentation for individuals forming part of the project team for verification purposes.
- 9.6. **Failure to adhere to the above requirements i.e. misrepresentation and/or non-submission of the required documentation may lead to a disqualification or termination of the contract with the appointed service provider at any stage of the implementation.**



**TABLE 1-BID EVALUATION CRITERIA (FUNCTIONALITY)**

	CRITERIA	SCORING	MAXIMUM POINTS	
1	SKILLS AND EXPERIENCE OF THE LEAD TRANSACTION ADVISOR		15	
1.1	Qualification		5	
	Post matric qualification in any of the relevant fields e.g. Health Care Finance, Business Management or, Project Management,  in any other relevant field accompanied by relevant experience in leading projects of similar in Health Environment.	5 = Master's Degree and above 4 = Honours Degree 3. Degree/BTech 2 = National Diploma 1 = Recognised formal qualification (NQF5)		
1.2	Experience		10	
	<ul style="list-style-type: none"><li>• Demonstrable experience in coordinating work of the entire transaction advisory</li><li>• Experience in project management and leading a multidisciplinary team</li><li>• Understanding of project structuring, and limited or non-recourse financing;</li><li>• Track record in leading complex projects</li><li>• Project structuring experience</li><li>• Negotiation experience</li></ul> Provide a CV with a list of projects confirming the skills, experience and track record included in your CV including client contact name and email and telephone numbers.	10 = >9 years 8 = 7-9 years 6 = 4-6 years 4 = 1-3 years 2= < 1 year  Only relevant experience will be considered		
2	FINANCIAL ANALYSIS & PROJECT FINANCE		25	
2.1	Qualifications		5	
	A relevant degree or equivalent in finance and/or accounting of a team leader.	5 = Master's Degree and above 4 = Honours Degree 3 = Degree/BTech 2 = National Diploma 1 = Recognised formal qualification (NQF5)		
2.2	Skills and experience		10	

	CRITERIA	SCORING	MAXIMUM POINTS	
	<p>Responsible for coordinating, leading and managing the output of the finance stream. Experience in the following fields:</p> <ul style="list-style-type: none"> <li>Investment analysis.</li> <li>Project and corporate finance</li> <li>financial planning.</li> <li>Financial modelling</li> <li>Experience in project structuring and project finance and other limited or non-recourse financing with a record of structuring a project that went into implementation.</li> </ul> <p>Provide a list of relevant projects in your CV. Highlight at least 6 relevant projects undertake in the past ten years.</p>	<p>10 = &gt;9 years 8 = 7-9 years 6 = 4-6 years 4 = 1-3 years 12 = &lt; 1 year</p> <p>Only relevant experience will be considered</p>		
2.3	<b>Financial Advisory FIRM experience</b>		<b>10</b>	
	<p>Track record of the financial Advisory team in the procurement of PPP/DBFO or similar. through project finance principles.</p> <p>Demonstrate experience in project structuring, project finance, financial modelling, packaging of the project funding requirements, financial and investment analysis, risk management, liquidity analysis</p> <p>Provide a list of projects confirming the skills, experience and track record that include:</p> <ul style="list-style-type: none"> <li>Specific role of the firm</li> <li>Project Value</li> <li>Stages in the project</li> </ul>	<p><b>Points</b></p> <p>10 = more than 9 years' experience plus advisory in 5 or more PPP/DBFO projects</p> <p>8 = 7-9 years' experience plus advisory experience in 3-4 PPP/DBFO projects</p> <p>6 = 4-6 years' experience plus advisory in 1-2 PPP/DBFO projects</p> <p>4 = 1-3 years' experience and no record of advisory in PPP/DBFO demonstrated</p> <p>2 = &lt;1 year of experience and no relevant experience</p>		
3	<b>TECHNICAL</b>		<b>25</b>	
3.1	<b>Qualification/s</b>	<b>Points</b>	<b>5</b>	
	<p>Post matric qualification in any of the relevant fields e.g.</p> <ul style="list-style-type: none"> <li>Health Care</li> <li>Finance,</li> <li>Business Management,</li> <li>Law, or</li> </ul>	<p>5 = Master's Degree and above 4 = Honours Degree 3. Degree/BTech 2 = National Diploma</p>		

	CRITERIA	SCORING	MAXIMUM POINTS	
	- Project Management in any other relevant field accompanied by relevant experience in leading projects of similar in Health Environment.	1 = Recognised formal qualification (NQF5)		
3.2	<b>Skills and experience</b>	<b>Points</b>	<b>10</b>	
	<ul style="list-style-type: none"> <li>- Demonstrate experience in leading multidisciplinary technical team in the execution of the health PPP project.</li> <li>- Understanding of technical skills required to plan and procure a health PPP or equivalent.</li> <li>- Developing the output specification to be included in the options analysis.</li> <li>- Lead the negotiations on specific technical matters.</li> <li>- Understanding of the PPP or similar projects</li> </ul> Provide a list of projects confirming the skills, experience and track record in your CV;	10 = 9 years and Above 8 = 7-9 years 6 = 4-6 years 4 = 1-3 years 2 = Less than 1 year  Only relevant experience will be considered		
3.3	<b>Technical Advisory FIRM experience</b>		<b>10</b>	
	Experience in leading and coordinating a technical team composed of different expertise.  Track record of coordinating technical team required for the implementation of the health PPP and the facilities involved.  Full understanding of health operations, infrastructure and integration.  Provide a list of projects confirming the skills, experience and track record that include: <ul style="list-style-type: none"> <li>- Specific role of the firm</li> <li>- Project Value</li> <li>- Stages in the project</li> </ul>	<b>Points</b>  10 = more than 9 years' experience plus advisory in 5 or more PPP/DBFO projects  8 = 7-9 years' experience plus advisory experience in 3-4 PPP/DBFO projects  6 = 4-6 years' experience plus advisory in 1-2 PPP/DBFO projects  4 = 1-3 years' experience and no record of advisory in PPP/DBFO demonstrated  2 = <1 year of experience and no relevant experience		
4	<b>LEGAL</b>		<b>20</b>	
4.1	<b>Qualification/s</b>	<b>Points</b>	<b>5</b>	
	Legal Degree	5 = Master's Degree and above 4 = Post Graduate/Honours Degree/LLB (post Grad)		

	CRITERIA	SCORING	MAXIMUM POINTS
		3. Legal Degree 2 = National Diploma 1 = Recognized formal qualification (NQF5)	
4.2	<b>Skills and experience</b>	<b>Points</b>	<b>10</b>
	<p>Demonstrate experience in leading multidisciplinary legal team in the execution of the health PPP project.</p> <ul style="list-style-type: none"> <li>- Understanding of legal requirements to plan and procure a health PPP or equivalent.</li> <li>- Developing and control bid documents and facilitate the signing of the agreement</li> <li>- Performed legal quality assurance of all bid documents and processes.</li> <li>- output specification to be included in the options analysis.</li> <li>- Lead the negotiations on specific technical matters.</li> <li>- Understanding of the PPP or similar projects</li> </ul> <p>Provide a list of projects confirming the skills, experience and track record in your CV;</p>	<p>10 = &gt;9 years 8 = 7-9 years 6 = 4-6 years 4 = 1-3 years 2 = &lt; 1 year</p> <p>Only relevant experience will be considered</p>	
4.3	<b>Legal Advisory firm</b>	<b>Points</b>	<b>5</b>
	<p>Relevant experience and track record of advisory service in drafting and negotiating commercial agreement.</p> <ul style="list-style-type: none"> <li>• A verifiable track record in the procurement of the project of the similar size and complexity.</li> <li>• Highlight experience in the implementation of Public Private Partnership projects</li> </ul> <p>Provide a list of projects confirming the skills, experience and track record that include:</p> <ul style="list-style-type: none"> <li>- Specific role of the firm</li> <li>- Project Value</li> <li>- Stages in the project</li> </ul>	<p>5 = more than 9 years' experience plus advisory in 5 or more PPP/DBFO projects</p> <p>4 = 7-9 years' experience plus advisory experience in 3-4 PPP/DBFO projects</p> <p>3 = 4-6 years' experience plus advisory in 1-2 PPP/DBFO projects</p> <p>2 = 1-3 years' experience and no record of advisory in PPP/DBFO demonstrated</p> <p>1 = &lt;1 year of experience and no relevant experience</p>	
<b>5</b>	<b>PROJECT TEAM STRUCTURE</b>		<b>5</b>

	CRITERIA	SCORING	MAXIMUM POINTS
	<p>The proposal must cover the following:</p> <ul style="list-style-type: none"> <li>- Project team structure/organogram indicating respective roles of each team member per stream and applicable reporting lines</li> <li>- CV's with certified copies (6months) indicating qualifications, skills experience, and their suitability for the proposed role/s.</li> <li>- Professional role that each person will play in the assignment and cross reference to each delivery</li> </ul> <p>Provide background of the team member's knowledge and understanding of the subject matter with specific reference to health.</p>	<p>5 = All elements are comprehensively covered (Project Team organogram and CVs provided, skills of each team member match the requirements as well relevant skills and experience are cross referenced to the deliverables).</p> <p>4 = Elements are provided but not comprehensive enough. (Project Team organogram and CVs provided, skills of each team member match the requirements as well relevant skills and experience are not cross referenced to the deliverables).</p> <p>3 = Elements are adequately provided. (Project Team organogram and CVs provided but skills of each team member are not clear how they match the requirements as well relevant skills and experience are not cross referenced to the deliverables).</p> <p>2 = Elements are poorly covered (Project Team organogram incomplete and CVs provided but do not provide required information, skills of each team member do not match the requirements as well relevant skills and experience are not cross referenced to the deliverables).</p> <p>1 = Elements are not covered</p>	
6	<b>CAPACITY TO DELIVER AND QUALITY OF PROJECT COMPREHENSION DEMONSTRATED IN PROPOSALS</b>		5
	<p>The proposal should demonstrate:</p> <ul style="list-style-type: none"> <li>- Understanding of the terms of reference in relation to Free State Health proposed PPP</li> <li>- Proposed work plan, project management approach and timelines for the project demonstrate clear understanding of the project deliverables.</li> </ul>	<p>5= Proposal demonstrates thorough understanding of the terms of reference in relation to the FS Health requirements and challenges related to this project with relevant innovative ideas to achieve project objectives.</p>	

	CRITERIA	SCORING	MAXIMUM POINTS
	<ul style="list-style-type: none"> <li>- Project management approach with its workplan is implementable without renegotiation and amendments.</li> <li>- Order of documents as prescribed in the bid document.</li> <li>- Adherence to provide CVs for the project team members</li> <li>- Copies certified within six months</li> </ul>	<p>4 = Proposal demonstrates acceptable understanding of the terms of reference in relation to FS Health requirements and challenges related to this project. Proposal provides acceptable innovative ideas to achieve project objectives.</p> <p>3 = Proposal demonstrates poor understanding of the terms of reference in relation to FS health requirements and challenges related to this project.</p> <p>2 = Proposal provides limited understanding and limited innovative ideas to achieve project objectives.</p> <p>1= Proposal provides no evidence of understanding the project requirements</p>	
7	<p><b>ORGANISATION METHODOLOGY, QUALITY OF PROPOSED WORK PLAN, PROJECT MANAGEMENT APPROACH</b></p> <p>A project management approach accompanied by a clear work plan with timelines (in Excel/ Gantt chart) must be included.</p> <p>Comprehensive organisation's methodology – Relevance of the method regarding management and the implementation of the project</p> <p>Logical scheduling of activities (Do the activities follow a sensible order)</p> <p>Please attach a detailed project plan that will hold the respondent accountable and used for monitoring the progress</p>	<p>5 = A comprehensive project management approach accompanied by a clear work plan with timelines (in Excel/ Gantt chart) are included.</p> <p>4 = project management approach, accompanied by a work plan with timelines (in Excel/ Gantt chart) are included.</p> <p>3 = A limited project management approach, accompanied by a work plan with timelines (in Excel/ Gantt chart) are included.</p> <p>2 = Unclear project management approach and unclear workplan, methodology and timelines</p>	5

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	CRITERIA	SCORING	MAXIMUM POINTS
		1 = Limited or no project management approach. No clear work plan and timelines (in Excel/ Gantt chart).	
TOTAL TECHNICAL POINTS			100
MINIMUM THRESHOLD			70

**NB:** Bidders who score below the minimum threshold of **70 out of 100** points on technical evaluation will be eliminated.

A bidder that scores less than 70 points out of 100 in respect of functionality will be regarded as submitting a non-responsive proposal and will be disqualified. Bidders who score the minimum points or more will qualify for further evaluation.

## 10. INFORMATION TO BIDDERS

### 10.1. CONTENT OF THE BIDDER PACK

Tender Pack Doc.	Title	Type	Purpose
1	Information to Bidders	pdf	For Information.
2	Terms of reference	pdf	Requirements.
3	SCM SBD 1 – Invitation to bid	pdf	To be printed, filled in by hand and signed.
4	SCM SBD 4 – Declaration of interest	pdf	To be printed, filled in by hand and signed.
5	SCM SBD 6.1 – Declaration of Specific Goals	pdf	To be printed, filled in by hand and signed.
6	SCM SBD 3.3 pricing schedule must be submitted before the closing date of the bid in a sealed envelope marked pricing schedule/price proposal.	pdf	To be printed, filled in by hand and signed.
7	Specific Goals	pdf	Evidence to be submitted by the supplier to substantiate the points claimed/allocated per specific goal

### 10.2. INSTRUCTIONS FOR COMPLETION AND SUBMISSION OF BIDS

The successful bidder will sign a Transaction Advisor Contract as per Regulation 16's Practice Note No.4 of 2004

#### COMPLETION OF BIDS

- 10.2.1. Bidders are advised that, to facilitate an efficient evaluation process, the bid should be as prescribed, concise and written in plain English.

#### CLARIFICATIONS

- 10.2.2 Requests for clarification must be made in writing by e-mail to [MosiaMP@fshealth.go.za](mailto:MosiaMP@fshealth.go.za) and [MaharasM@fshealth.gov.za](mailto:MaharasM@fshealth.gov.za)
- 10.2.2. Telephonic enquiries for clarification will not be accepted. Bidders must reduce all enquiries to writing and send to the above email address.

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### 10.3. EVALUATION PROCESS

#### 10.3.1. The evaluation process comprises the following phases:

##### 10.3.1.1. Phase I: Initial administration screening process

During this phase bid documents will be reviewed to determine compliance with tax matters and Central Supplier Database (CSD) at closing date and time of bid.

##### 10.3.1.2. All bid proposals will also be assessed for compliance with the administrative requirements of the bid:

Step	Administrative Requirements	Check
1	Master bid document	Provided and bound
2	Four copies of the Bid document	Provided and bound
Included in the bid document		
3	SCM SBD 1	Completed and signed
4	Tax clearance status: CSD registration report or number/SARS pin	Provided and valid
5	SCM SBD 4	Completed and signed
6	SCM SBD 6.1	Completed and signed
7	Specific Goals /Affidavit if applicable	Provide evidence and valid
8	SCM SBD 3.3 pricing schedule	Completed and signed (sealed in a separate enveloped marked "pricing schedule/price proposal")
9	Specific Goals	Evidence to be submitted by the supplier to substantiate the points claimed/allocated per specific goal

FS Health reserves the right to reject applications that are not submitted in the prescribed format or where the information presented is illegible or incomplete.

#### 10.3.2. Phase II: Functionality evaluation - desktop

- Bids will be evaluated strictly in accordance with the bid evaluation criteria stipulated in the TOR.
- Bidders must, as part of their bid documents, submit supportive documentation for all technical requirements. The panel responsible for scoring the respective bids will evaluate and score all bids based on the information provided.
- Bidders will not rate themselves, but must ensure that all information is supplied as required. The Bid Evaluation Committee (BEC) will evaluate and score all responsive bids and will verify all documents submitted by the bidders.
- The panel members will individually evaluate the responses received against the criteria as set out in the TOR.

#### 10.3.3. Phase III: Price evaluation as per PPPFA

- The pricing proposal will be evaluated as per 11.5 Bid Evaluation Criteria below.
- Price/financial proposals must be submitted in South African Rand.
- Free State Department of Health reserves the right to negotiate rates with the recommended bidder(s).

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#### 10.4. SCORING METHODOLOGY

- 10.4.1. Each panel member will rate each individual criterion on the score sheet using the points guidelines indicated in the TOR bid evaluation criteria.
- 10.4.2. Individual value scores will be added to obtain the points scored for all elements. These points will be added and averaged according to the number of panel members. Only bidders that have met or exceeded the minimum threshold as stipulated in the TOR for desktop evaluation will be evaluated and scored in terms of pricing and Specific goals

#### 10.5. EVALUATION CRITERIA

- 10.5.1. In terms of regulation 5 of the Preferential Procurement Regulations pertaining to the Preferential Procurement Policy Framework Act, 2022 (Act 5 of 2000), responsive bids will be adjudicated by the State on the 80/20-preference point for specific goals empowerment in terms of which points are awarded to bidders on the basis of:
- The bidden price (maximum 80 points)
  - Specific goals (20 points)
- 10.5.2. The following formula will be used to calculate the points for price in respect of bidders with a Rand value up to R50 million:

$$Ps = 1 - \frac{Pt - Pmin}{Pmin} \times 80$$

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

- 10.5.3. The State reserves the right to arrange contracts with more than one contractor.

#### 10.6. POINTS

- 10.6.1. The Preferential Procurement Policy Framework Act 2022 (PPFA) and effective from 16 January 2023. These regulations require bidders to submit valid original or certified copies of their specific goals.

#### 10.7.7. MANDATORY REQUIREMENTS

- 10.7.1. SCM SBD 3.3 pricing schedule/financial proposal must be submitted before the closing date of the bid in a separate sealed envelope marked "pricing schedule/price proposal". Failure to comply with this requirement will result in disqualification of your bid.
- 10.7.2. 7.2 Registration on Central Supplier Database (CSD). Provide summary report or the CSD number for verification purposes

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## **10.8. TAX CLEARANCE STATUS**

- 10.8.1. Relevant information for purposes of verifying that the tax matters of the bidder are in order must be submitted at the closing date and time, where consortium/joint ventures/sub-contractor are involved each party to the association must submit a separate validation of Tax status i.e. Registration number from Central Supplier Database (CSD) must be provided with this bid.
- 10.8.2. Bidders tax matters must be compliant at the time of award.

## **10.9. VALUE ADDED TAX**

- 10.9.1. All bid prices must be inclusive of 15% Value-Added Tax.

## **10.10. REGISTRATION**

- 10.10.1. Latest proof of company registration from Companies and Intellectual Property Commission (CIPC) should be submitted.

## **10.11. CLIENT BASE**

- 10.11.1. Bidders should have specific experience and submit at least three recent and contactable references (in a form of written proof (s) on their company's letterhead including relevant person (s), telephone, fax numbers and e-mails) of similar work undertaken.
- 10.11.2. Free State Department of Health reserves the right to contact references during the evaluation and adjudication process to obtain information.

## **10.12. LEGAL IMPLICATIONS**

- 10.12.1. Successful service providers must be prepared to enter into a service level agreement with the Free State Department of Health.
- 10.12.2. The Free State Department of Health reserves the right to award this bid on a non-exclusive basis, i.e. Free State Department of Health may procure similar services outside this bid with the view of securing the best service and value for money.

## **10.13. COMMUNICATION**

- 13.1 Free State Department of Health's Supply Chain Management Unit will communicate with bidders for, among others, where bid clarity is sought, to obtain information or to extend the validity period. Any communication either by facsimile, letter or electronic mail or any other form of correspondence to any government official, Free State Department of Health or representative of a testing institution or a person acting in an advisory capacity for the National Treasury in respect of this bid between the closing date and the award of the bid by the bidder is prohibited.

## **10.14. COUNTER CONDITIONS**

- 10.14.1. Bidders' attention is drawn to the fact that amendments to any of the Information to bid by bidders will result in invalidation of such bids.

## **10.15. PROHIBITION OF RESTRICTIVE PRACTICES**

- 10.15.1. In terms of section 4(1) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder(s) is/ are or a contractor(s) was/were involved in:
  - a. directly or indirectly fixing a purchase or selling price or any other trading condition;

- b. dividing markets by allocating customers, suppliers, territories or specific types of goods or services; or
- c. collusive bidding.

- 10.15.2. If a bidder(s) or contractor(s), in the judgment of the purchaser, has/have engaged in any of the restrictive practices referred to above, the purchaser may, without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered or terminate the contract in whole or in part and refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

#### 10.16. FRONTING

- 10.16.1. The National Treasury supports the spirit of broad based black economic empowerment and recognizes that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent and legally compliant manner. Against this background the National Treasury condemns any form of fronting.
- 10.16.2. The National Treasury, in ensuring that bidders conduct themselves in an honest manner will, as part of the bid evaluation processes, conduct or initiate the necessary enquiries/investigations to determine the accuracy of the representation made in bid documents. Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the Free State Department of Health of Trade and Industry, be established during such enquiry/investigation, the onus will be on the bidder / contractor to prove that fronting does not exist. Failure to do so within a period of 14 days from date of notification may invalidate the bid/contract and may also result in the restriction of the bidder/contractor to conduct business with the public sector for a period not exceeding ten years, in addition to any other remedies the National Treasury may have against the bidder/contractor concerned.

#### 10.17. TIMEFRAMES AND FORMAL CONTRACT

Successful bidder(s) will be required to enter into formal contract with the Free State Department of Health.

#### 10.18. PACKAGING OF BID

The bidder shall place both the sealed Technical Proposal and Price/ Financial Proposal envelopes into an outer sealed envelope or package, and must be clearly marked as follows:

##### 10.18.1.FUNCTIONALITY PROPOSAL

10.18.1.1. The bid submission should include:

- a. Four individually bound documents;
- b. The originally signed and bound master document; and
- c. Four individually bound copies of the master document. The bid document (technical proposal) must include the following:

Sequence	Document Title
1	SCM SBD 1
2	Tax clearance status: CSD registration report or number
3	SCM SBD 4

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4	SCM SBD 6.1
5	Specific goals & B-BBEE Certificate/Affidavit
6	Response to Technical Evaluation Criteria as per Terms of Reference
7	Specific goals

10.18.1.2. The bid shall not include any other documentation (e.g. Annual reports, brochures).

10.18.1.3. The bid shall be enclosed in a sealed envelope.

10.18.1.4. The envelope must be addressed as follows:

<b>Bid description:</b>	
<b>Bid No:</b>	
<b>TECHNICAL PROPOSAL</b>	
<b>Name of bidder:</b>	
<b>Contact number of bidders:</b>	
<b>Address of bidder:</b>	

## 10.19 SPECIFIC GOALS

Specific goal	Applicable weight	Evidence to be submitted by the supplier to substantiate the points claimed/allocated per specific goal (NB: Any of the evidence indicated below per specific goal should be regarded as sufficient)
EME or QSE	4	<ul style="list-style-type: none"> <li>Sworn affidavit signed by the EME or QSE representative and attested by a Commissioner of oaths</li> <li>A certified copy of a BB-BEE certificate issued by the verification agency accredited by SANAS</li> <li>Proof of B-BBEE issued by DTIC</li> </ul>
Woman	6	<ul style="list-style-type: none"> <li>RSA identity document</li> <li>Valid RSA driver's license issued by the relevant authority</li> </ul>
Youth	4	<ul style="list-style-type: none"> <li>RSA identity document</li> <li>Valid RSA driver's license issued by the relevant authority</li> </ul> <p>(NB: Youth is defined as any south African citizen with the age between 18 and 35 years)</p>
People with disability	2	<ul style="list-style-type: none"> <li>Sworn affidavit signed by the company representative and attested by the Commission of oaths</li> </ul>
Free State based company (NB: the institutions must ensure that this specific goal is aligned to the district they are situated in.	4	<ul style="list-style-type: none"> <li>Municipal Account</li> <li>Lease agreement</li> <li>Title deeds</li> <li>Permission to occupy land signed by the traditional authority</li> <li>A letter of confirmation of the address signed by the ward councillor</li> </ul>

## **SPECIAL NOTICE- PHASE I AND PHASE II**

This bid will be handled in terms of the two-stage bidding approach in which:

It is expected of all bidders to submit Phase I and II in a single envelope including Envelope 1 and 2 which must be clearly marked as Phase I (technical proposals) and Phase II (financial proposals). ***Failure to adhere to this will invalidate the bid.***

### **A. Phase I of the bidding process will be technical proposal**

Bidders are requested to provide the Department with a functionality/ technical proposal only as requested in the terms of reference as per bid document, which will be evaluated on the criteria as contained in the bid document.

Bidders must score at least **70/100** on functionality to be further considered for Phase II, of which their financial proposals will be considered.

It may be expected from the shortlisted bidders to do a presentation to the Department if deemed necessary.

### **B. Phase II of the bidding process will be for the financial proposals.**

Bidders are requested to provide the Department with a financial proposal which must be submitted in a separate envelope on the same day as the closing date and time for Phase I

**PRICING SCHEDULE**  
(Professional Services)

NAME OF BIDDER: ..... BID NO.: DOH (FS) 05/2023/2024

CLOSING TIME 11:00

CLOSING DATE: 06 OCTOBER 2023

OFFER TO BE VALID FOR 120 DAYS FROM THE CLOSING DATE OF BID.

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY **(ALL APPLICABLE TAXES INCLUDED)
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**Terms of reference for the appointment of the transaction advisor or team of transaction advisors to conduct a Public Private Partnership Procurement of joint location facilities at the Pelonomi Tertiary hospital and Universitas Academic hospital for the Free State Department of Health.**

**(SEE ATTACHED SPECIFICATION)**

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

..... days  
..... days  
..... days  
..... 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.....

(32)

TOTAL: R.....



Name of Bidder: .....

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

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

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

**Me. CJB Naicker**  
**Bophelo House, Bid Management,**  
**Ground Floor, Block C-West, c/o Charlotte Maxeke Street and Harvey Road,**  
**Bloemfontein**

Tel: 051-408 1707

Or for technical information –

**Mr. B.M Maharaswa / Me. M.P Mosia**

Tel: 051-408 1887/1298

### PRICE ADJUSTMENTS

#### A NON-FIRM PRICES SUBJECT TO ESCALATION

1. IN CASES OF PERIOD CONTRACTS, NON FIRM PRICES WILL BE ADJUSTED (LOADED) WITH THE ASSESSED CONTRACT PRICE ADJUSTMENTS IMPLICIT IN NON FIRM PRICES WHEN CALCULATING THE COMPARATIVE PRICES
2. IN THIS CATEGORY PRICE ESCALATIONS WILL ONLY BE CONSIDERED IN TERMS OF THE FOLLOWING FORMULA:

$$Pa = (1 - V)Pt \left( D1 \frac{R1t}{R1o} + D2 \frac{R2t}{R2o} + D3 \frac{R3t}{R3o} + D4 \frac{R4t}{R4o} \right) + VPt$$

Where:

Pa	=	The new escalated price to be calculated.
(1-V)Pt	=	85% of the original bid price. <b>Note that Pt must always be the original bid price and not an escalated price.</b>
D1, D2..	=	Each factor of the bid price eg. labour, transport, clothing, footwear, etc. The total of the various factors D1, D2...etc. must add up to 100%.
R1t, R2t.....	=	Index figure obtained from new index (depends on the number of factors used).
R1o, R2o	=	Index figure at time of bidding.
VPt	=	15% of the original bid price. This portion of the bid price remains firm i.e. it is not subject to any price escalations.

3. The following index/indices must be used to calculate your bid price:

#### **Index: CPI Dated: August 2023**

4. FURNISH A BREAKDOWN OF YOUR PRICE IN TERMS OF ABOVE-MENTIONED FORMULA. THE TOTAL OF THE VARIOUS FACTORS MUST ADD UP TO 100%.

FACTOR (D1, D2 etc. eg. Labour, transport etc.)	PERCENTAGE OF BID PRICE

**SBD 3.3****B PRICES SUBJECT TO RATE OF EXCHANGE VARIATIONS**

1. Please furnish full particulars of your financial institution, state the currencies used in the conversion of the prices of the items to South African currency, which portion of the price is subject to rate of exchange variations and the amounts remitted abroad.

PARTICULARS OF FINANCIAL INSTITUTION	ITEM NO	PRICE	CURRENCY	RATE	PORTION OF PRICE SUBJECT TO ROE	AMOUNT IN FOREIGN CURRENCY REMITTED ABROAD
				ZAR=		
				ZAR=		
				ZAR=		
				ZAR=		
				ZAR=		
				ZAR=		

2. Adjustments for rate of exchange variations during the contract period will be calculated by using the average monthly exchange rates as issued by your commercial bank for the periods indicated hereunder: (Proof from bank required)

AVERAGE MONTHLY EXCHANGE RATES FOR THE PERIOD:	DATE DOCUMENTATION MUST BE SUBMITTED TO THIS OFFICE	DATE FROM WHICH NEW CALCULATED PRICES WILL BECOME EFFECTIVE	DATE UNTIL WHICH NEW CALCULATED PRICE WILL BE EFFECTIVE

## 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.

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 2022

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

**NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022**

### 1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to invitations to tender:

the 80/20 system for requirements with a Rand value of up to R50 000 000  
(all applicable taxes included)

1.2 **To be completed by the organ of state**

*(delete whichever is not applicable for this tender).*

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

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

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

(a) Price; and

(b) Specific Goals.

1.4 **To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

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

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

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

## 2. DEFINITIONS

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

## 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

### 3.1. POINTS AWARDED FOR PRICE

#### 3.1.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

<b>80/20</b>	<b>or</b>	<b>90/10</b>
$Ps = 80 \left( 1 - \frac{Pt - P_{min}}{P_{min}} \right) \text{ or } Ps = 90 \left( 1 - \frac{Pt - P_{min}}{P_{min}} \right)$		

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

### 3.2. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

(40)



### 3.2.1. POINTS AWARDED FOR PRICE

A maximum of 80 or 90 points is allocated for price on the following basis:

$$\begin{array}{ccc} \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \\ \mathbf{Ps} = \mathbf{80} \left( \mathbf{1} + \frac{\mathbf{Pt - P_{max}}}{\mathbf{P_{max}}} \right) & \mathbf{or} & \mathbf{Ps} = \mathbf{90} \left( \mathbf{1} + \frac{\mathbf{Pt - P_{max}}}{\mathbf{P_{max}}} \right) \end{array}$$

Where

- Ps = Points scored for price of tender under consideration  
Pt = Price of tender under consideration  
Pmax = Price of highest acceptable tender

### 4. POINTS AWARDED FOR SPECIFIC GOALS

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

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

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

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

<b>The specific goals allocated points in terms of this tender</b>	<b>Number of points allocated (80/20 system) (To be completed by the organ of state)</b>	<b>Number of points claimed (80/20 system) (To be completed by the tenderer)</b>	<b>Evidence to be submitted by the supplier to substantiate the points claimed/allocated per specific goal (NB: Any of the evidence indicated below per specific goal should be regarded as sufficient). Original documents and or certified copies must be submitted.</b>
EME or QSE	4		<ul style="list-style-type: none"> <li>Sworn affidavit signed by the EME or QSE representative and attested by a Commissioner of oaths</li> <li>A certified copy of a B-BBEE certificate issued by the verification agency accredited by SANAS</li> <li>Proof of B-BBEE issued by DTIC</li> </ul>
Woman	6		<ul style="list-style-type: none"> <li>RSA identity document</li> <li>Valid RSA driver's license issued by the relevant authority</li> </ul>
Youth	4		<ul style="list-style-type: none"> <li>RSA identity document</li> <li>Valid RSA driver's license issued by the relevant authority (NB: Youth is defined as any South African citizen with the age between 18 and 35 years)</li> </ul>
People with disability	2		<ul style="list-style-type: none"> <li>Sworn affidavit signed by the company representative and attested by the Commission of oaths.</li> </ul>
Free State based company	4		<ul style="list-style-type: none"> <li>Municipal Account</li> </ul>

			<ul style="list-style-type: none"> <li>• Lease</li> <li>• Title deeds</li> <li>• Permission to occupy land signed by the traditional authority</li> <li>• A letter of confirmation of the address signed by the ward councillor</li> </ul>
<b>Total</b>	<b>20</b>		

#### DECLARATION WITH REGARD TO COMPANY/FIRM

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

4.4. Company registration number: .....

4.5. TYPE OF COMPANY/ FIRM

Partnership/Joint Venture / Consortium

One-person business/sole propriety

Close corporation

Public Company

Personal Liability Company

(Pty) Limited

Non-Profit Company

State Owned Company

[TICK APPLICABLE BOX]

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
  - (a) disqualify the person from the tendering process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;

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- (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
- (e) forward the matter for criminal prosecution, if deemed necessary.

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

## SWORN AFFIDAVIT – B-BBEE EXEMPTED MICRO ENTERPRISE - GENERAL

I, the undersigned,

<b>Full name &amp; Surname</b>	
<b>Identity number</b>	

Hereby declare under oath as follows:

1. The contents of this statement are to the best of my knowledge a true reflection of the facts.
2. I am a Member / Director / Owner of the following enterprise and am duly authorised to act on its behalf:

<b>Enterprise Name:</b>	
<b>Trading Name (If Applicable):</b>	
<b>Registration Number:</b>	
<b>Enterprise Physical Address:</b>	
<b>Type of Entity (CC, (Pty) Ltd, Sole Prop etc.):</b>	
<b>Nature of Business:</b>	
<b>Definition of "Black People"</b>	<p>As per the Broad-Based Black Economic Empowerment Act 53 of 2003 as Amended by Act No 46 of 2013 "Black People" is a generic term which means Africans, Coloureds and Indians –</p> <ul style="list-style-type: none"><li>(a) who are citizens of the Republic of South Africa by birth or descent; or</li><li>(b) who became citizens of the Republic of South Africa by naturalisation-<ul style="list-style-type: none"><li>i. before 27 April 1994; or</li><li>ii. on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date;"</li></ul></li></ul>
<b>Definition of "Black Designated Groups"</b>	<p>"Black Designated Groups means:</p> <ul style="list-style-type: none"><li>(a) unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution;</li><li>(b) Black people who are youth as defined in the National Youth Commission Act of 1996;</li><li>(c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act;</li><li>(d) Black people living in rural and under developed areas;</li><li>(e) Black military veterans who qualifies to be called a military veteran in terms of the Military Veterans Act 18 of 2011;"</li></ul>

3. I hereby declare under Oath that:

- The Enterprise is \_\_\_\_\_% Black Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is \_\_\_\_\_% Black Female Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is \_\_\_\_\_% Black Designated Group Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- Black Designated Group Owned % Breakdown as per the definition stated above:
  - Black Youth % = \_\_\_\_\_%
  - Black Disabled % = \_\_\_\_\_%
  - Black Unemployed % = \_\_\_\_\_%
  - Black People living in Rural areas % = \_\_\_\_\_%
  - Black Military Veterans % = \_\_\_\_\_%
- Based on the Financial Statements/Management Accounts and other information available on the latest financial year-end of \_\_\_\_\_, the annual Total Revenue was R10,000,000.00 (Ten Million Rands) or less
- Please Confirm on the below table the B-BBEE Level Contributor, **by ticking the applicable box.**

100% Black Owned	<b>Level One</b> (135% B-BBEE procurement recognition level)	
At least 51% Black Owned	<b>Level Two</b> (125% B-BBEE procurement recognition level)	
Less than 51% Black Owned	<b>Level Four</b> (100% B-BBEE procurement recognition level)	

- 4. I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the Owners of the Enterprise which I represent in this matter.
- 5. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Commissioner of Oaths  
Signature & stamp

(46)

## SWORN AFFIDAVIT – B-BBEE QUALIFYING SMALL ENTERPRISE - GENERAL

I, the undersigned,

<b>Full name &amp; Surname</b>	
<b>Identity number</b>	

Hereby declare under oath as follows:

1. The contents of this statement are to the best of my knowledge a true reflection of the facts.
2. I am a Member / Director / Owner of the following enterprise and am duly authorised to act on its behalf:

<b>Enterprise Name:</b>	
<b>Trading Name (If Applicable):</b>	
<b>Registration Number:</b>	
<b>Enterprise Physical Address:</b>	
<b>Type of Entity (CC, (Pty) Ltd, Sole Prop etc.):</b>	
<b>Nature of Business:</b>	
<b>Definition of "Black People"</b>	<p>As per the Broad-Based Black Economic Empowerment Act 53 of 2003 as Amended by Act No 46 of 2013 "Black People" is a generic term which means Africans, Coloureds and Indians –</p> <ul style="list-style-type: none"><li>(a) who are citizens of the Republic of South Africa by birth or descent; or</li><li>(b) who became citizens of the Republic of South Africa by naturalisation-<ul style="list-style-type: none"><li>i. before 27 April 1994; or</li><li>ii. on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date;"</li></ul></li></ul>
<b>Definition of "Black Designated Groups"</b>	<p>"Black Designated Groups means:</p> <ul style="list-style-type: none"><li>(a) unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution;</li><li>(b) Black people who are youth as defined in the National Youth Commission Act of 1996;</li><li>(c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act;</li><li>(d) Black people living in rural and under developed areas;</li><li>(e) Black military veterans who qualifies to be called a military veteran in terms of the Military Veterans Act 18 of 2011;"</li></ul>

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3. I hereby declare under Oath that:

- The Enterprise is \_\_\_\_\_% Black Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is \_\_\_\_\_% Black Female Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is \_\_\_\_\_% Black Designated Group Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- Black Designated Group Owned % Breakdown as per the definition stated above:
  - Black Youth % = \_\_\_\_\_%
  - Black Disabled % = \_\_\_\_\_%
  - Black Unemployed % = \_\_\_\_\_%
  - Black People living in Rural areas % = \_\_\_\_\_%
  - Black Military Veterans % = \_\_\_\_\_%
- Based on the Financial Statements/Management Accounts and other information available on the latest financial year-end of \_\_\_\_\_, the annual Total Revenue was between R10,000,000.00 (Ten Million Rands) and R50,000,000.00 (Fifty Million Rands),

- Please confirm on the table below the B-BBEE level contributor, **by ticking the applicable box.**

100% Black Owned	<b>Level One</b> (135% B-BBEE procurement recognition level)	
At Least 51% black owned	<b>Level Two</b> (125% B-BBEE procurement recognition level)	

4. I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the owners of the enterprise which I represent in this matter.
5. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Commissioner of Oaths  
Signature & stamp

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**SWORN AFFIDAVIT – B-BBEE EXEMPTED MICRO ENTERPRISE – SPECIALISED ENTITY -  
GENERAL**

I, the undersigned,

<b>Full name &amp; Surname</b>	
<b>Identity number</b>	

Hereby declare under oath as follows:

1. The contents of this statement are to the best of my knowledge a true reflection of the facts.
2. I am a Director of the following enterprise and am duly authorised to act on its behalf:

<b>Enterprise Name:</b>	
<b>Trading Name (if Applicable):</b>	
<b>Registration Number:</b>	
<b>Enterprise Physical Address:</b>	
<b>Type of Entity (NPO, PBO etc.):</b>	
<b>Nature of Business:</b>	
<b>Definition of "Black People"</b>	<p>As per the Broad-Based Black Economic Empowerment Act 53 of 2003 as Amended by Act No 46 of 2013 "Black People" is a generic term which means Africans, Coloureds and Indians –</p> <p>(a) who are citizens of the Republic of South Africa by birth or descent; or</p> <p>(b) who became citizens of the Republic of South Africa by naturalisation-</p> <p>i. before 27 April 1994; or</p> <p>ii. on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date;"</p>
<b>Definition of "Black Designated Groups"</b>	<p>"Black Designated Groups means:</p> <p>(a) unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution;</p> <p>(b) Black people who are youth as defined in the National Youth Commission Act of 1996;</p> <p>(c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act;</p> <p>(d) Black people living in rural and under developed areas;</p> <p>(e) Black military veterans who qualifies to be called a military veteran in terms of the Military Veterans Act 18 of 2011;"</p>

3. I hereby declare under Oath that:

- The Enterprise has \_\_\_\_\_% Black Beneficiaries as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise has \_\_\_\_\_% Black Female Beneficiaries as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise has \_\_\_\_\_% Black Designated Group Beneficiaries as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- Black Designated Group Beneficiary % Breakdown as per the definition stated above:
  - Black Youth % = \_\_\_\_\_%
  - Black Disabled % = \_\_\_\_\_%
  - Black Unemployed % = \_\_\_\_\_%
  - Black People living in Rural areas % = \_\_\_\_\_%
  - Black Military Veterans % = \_\_\_\_\_%
- Based on the Financial Statements/Management Accounts and other information available on the latest financial year-end of \_\_\_\_\_, the annual Total Revenue/Allocated Budget/Gross Receipts was R10,000,000.00 (Ten Million Rands) or less

- Please Confirm on the below table the B-BBEE Level Contributor, **by ticking the applicable box.**

At Least 75% Black Beneficiaries	<b>Level One</b> (135% B-BBEE procurement recognition level)	
At Least 51% Black Beneficiaries	<b>Level Two</b> (125% B-BBEE procurement recognition level)	
Less than 51% Black Beneficiaries	<b>Level Four</b> (100% B-BBEE procurement recognition level)	

4. I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the Owners of the Enterprise which I represent in this matter.
5. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Commissioner of Oaths  
Signature & stamp

(50)

**SWORN AFFIDAVIT – B-BBEE QUALIFYING SMALL ENTERPRISE – SPECIALISED ENTITY -  
GENERAL**

I, the undersigned,

<b>Full name &amp; Surname</b>	
<b>Identity number</b>	

Hereby declare under oath as follows:

1. The contents of this statement are to the best of my knowledge a true reflection of the facts.

2. I am a Director of the following enterprise and am duly authorised to act on its behalf:

<b>Enterprise Name:</b>	
<b>Trading Name (If Applicable):</b>	
<b>Registration Number:</b>	
<b>Enterprise Physical Address:</b>	
<b>Type of Entity (NPO, PBO etc.):</b>	
<b>Nature of Business:</b>	
<b>Definition of "Black People"</b>	As per the Broad-Based Black Economic Empowerment Act 53 of 2003 as Amended by Act No 46 of 2013 "Black People" is a generic term which means Africans, Coloureds and Indians –  (a) who are citizens of the Republic of South Africa by birth or descent; or (b) who became citizens of the Republic of South Africa by naturalisation- i. before 27 April 1994; or ii. on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date;"
<b>Definition of "Black Designated Groups"</b>	"Black Designated Groups means:  (a) unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution; (b) Black people who are youth as defined in the National Youth Commission Act of 1996; (c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act; (d) Black people living in rural and under developed areas; (e) Black military veterans who qualifies to be called a military veteran in terms of the Military Veterans Act 18 of 2011;"

3. I hereby declare under Oath that:

- The Enterprise has \_\_\_\_\_% Black Beneficiaries as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise has \_\_\_\_\_% Black Female Beneficiaries as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise has \_\_\_\_\_% Black Designated Group Beneficiaries as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- Black Designated Group Beneficiary % Breakdown as per the definition stated above:
  - Black Youth % = \_\_\_\_\_%
  - Black Disabled % = \_\_\_\_\_%
  - Black Unemployed % = \_\_\_\_\_%
  - Black People living in Rural areas % = \_\_\_\_\_%
  - Black Military Veterans % = \_\_\_\_\_%
- Based on the Financial Statements/Management Accounts and other information available on the latest financial year-end of \_\_\_\_\_, the annual Total Revenue/Allocated Budget/Gross Receipts was between R10,000,000.00 (Ten Million Rands) and R50,000,000.00 (Fifty Million Rands)

- Please confirm on the table below the B-BBEE level contributor, **by ticking the applicable box.**

At Least 75% Black Beneficiaries	<b>Level One</b> (135% B-BBEE procurement recognition level)	
At Least 51% Black Beneficiaries	<b>Level Two</b> (125% B-BBEE procurement recognition level)	

4. I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the owners of the enterprise which I represent in this matter.
5. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Commissioner of Oaths  
Signature & stamp

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**SPECIAL CONDITIONS OF CONTRACT**  
**DEPARTMENT OF HEALTH**

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**THE FOLLOWING SPECIAL CONDITIONS OF CONTRACT WILL APPLY TO THIS BID / QUOTATION:****1. EVALUATION CRITERIA**

The following preference point system is applicable to the bid/quotation 80/20.

*The preference points for this bid/quotation are allocated as follows and will be applied when adjudicating the bid / quotation:*

Price	=	80 points
Specific goals	=	20 points
<u>Total points</u>	=	<u>100 points</u>

**2. BROAD-BASED BLACK ECONOMIC EMPOWERMENT STATUS LEVEL CERTIFICATES**

2.1 Bidders may claim points for B-BBEE as part of the specific goals in the following manner:

- 2.1.1 An Exempted Micro Enterprise (EME), is required to submit a sworn affidavit confirming their annual total revenue of R10 million or less and level of black ownership to claim B-BBEE points allocated under the specific goals.
- 2.1.2 An Exempted Micro Enterprise (EME) is required to submit a sworn affidavit confirming their annual turnover, allocated budget or gross receipts of R10 million or less and level of percentage of black beneficiaries to claim B-BBEE points allocated under the specific goals.
- 2.1.3. An EME may be measured in terms of the Qualifying Small Enterprise scorecard should they wish to maximize their points and move to a higher B-BBEE recognition level. It is in this context that an EME may submit a B-BBEE verification certificate to claim points allocated under the specific goals.
- 2.1.4. A Qualifying Small Enterprise (QSE), other than submitting the B-BBEE level verification certificate, may submit a sworn affidavit confirming their annual total revenue of between R10 million and R50 million and level of black ownership to claim B-BBEE points allocated under the specific goals.
- 2.1.5. A Qualifying Small Enterprise (QSE) that regarded as a specialized enterprise, other than submitting the B-BBEE level certificate, may submit a sworn affidavit confirming their annual turnover, allocated budget or gross receipt of R50 million or less and level of percentage of black beneficiaries to claim B-BBEE points allocated under the specific goals.
- 2.2 Bidders who do not submit B-BBEE Level Verification Certificates or are non-compliant contributors to B-BBEE do not qualify for specific goals on B-BBEE. **They will therefore score points out of 90 or 80 for price only and zero (0) points out of 10 or 20 for specific goals.**

- 2.3 A trust, consortium or joint venture must submit a consolidated B-BBEE Status Level Verification Certificate for every separate bid and Public Entities and Tertiary Institutions must submit B-BBEE Status Level Verification Certificate together with their bids.

### 3. **ONCE-OFF BID PRICES**

#### 3.1 Firm prices:

Prices for once-off bids must be firm. No application for price adjustment will be considered except in the case where rate of exchange is applicable. All the necessary documentary proof must be submitted.

Where the exchange rate is applicable the bidder is expected to complete the SBD 3.2 in full at the time of bidding.

### 4. **PERIOD CONTRACT PRICES**

#### 4.1 1<sup>st</sup> year of the contract period:

Prices must be firm for the 1<sup>st</sup> (first) year of the contract period. No price adjustments will be allowed during the 1<sup>st</sup> year of the contract period except in the case where rate of exchange is applicable. The request for price adjustment due to rate of exchange will be considered per consignment. All the necessary documentary proof must be submitted.

#### 4.2 2<sup>nd</sup> year and rest of the contract period – Prices subject to escalation

- 4.2.1 A request for price adjustment due to statutory increases on period contracts will be considered **after** the 1<sup>st</sup> year of the contract period if the bid/quotation is qualified as such and with the necessary documentary proof.

- 4.2.2 **In order to be considered for price increases from the 2<sup>nd</sup> year of the contract period** (statutory increase) and where the rate of exchange is applicable (on request per consignment), the price escalation form SBD 3.2 must be completed in full.

#### 4.2.3 Submitting of price adjustment claims:

Claims for statutory increases must be submitted within 90 days of the change in price. If a claim is received after 90 days, the adjusted price will only be considered from the date the claim was received by the Department.

Delivery of goods and/or services must not be withheld as a result of the price adjustment not being finalized or as a result of any dispute.

Companies must indicate in the bid document the amount to be remitted abroad as well as the rate of exchange applied in the conversion of that amount into SA currency, when calculating the bid price. Proof from the bank for rate of exchange applicable to the bid at time of bidding **must** be attached to the bid document.

**Price adjustments based on Rate of Exchange will only be applied per consignment delivered to the applicable institution of the Department due to the continuous fluctuation.**

4.2.4 Documentary proof for price adjustments:

- (i) All claims must be properly substantiated by documentary evidence to the satisfaction of the Head of Health.
- (ii) The following information must be supplied when claims for rate of exchange variations are lodged:
  - Documentary evidence of currency and amount paid to foreign supplier
  - Supplier's invoice
  - Bill of entry/landing
  - Copy of institutions order, delivery note and invoice

4.2.5 Failure to comply with the conditions as per par. 4.2.2 to 4.2.4 **will invalidate** the claim.

**5. QUALIFICATION OF BID DOCUMENTS**

- 5.1 The invitation form (SBD 1) must be **completed in full and signed originally** (in black pen ink) by the person in the company who is authorised to do so. Failure to sign the offer will invalidate the offer.
- 5.2 The SBD forms and all other bid forms must be submitted in the original format. The Office will only consider the original bid documents issued by the Office and signed by the company. Bid documents that are retyped, transmitted by facsimile, electronic mail or changed in any other way, will invalidate the bid. Scanned documents, which are completed in the original, will be acceptable.

**6. DECLARATIONS – SBD 4, SBD 6.1:**

All declarations must be **originally completed** in full and duly signed by the bidder and where required, two witnesses.

**6.1 SBD 4 – Declaration of Interest**

All the state employees are not allowed to do a business with the Free State Department of Health.

**7. CORRECTIONS TO DOCUMENTS:**

- 7.1 Correction fluid (like Tippex for example) must not be used in bid documents in order to correct mistakes. Where a company wishes to correct a mistake, a single line must be drawn through it and the company must place his/her signature and date next to the correction, so that the original entry is still visible and legible. Failing to rectify mistakes in this manner **will invalidate the bid or the relevant item, or the relevant clause.**



- 7.2 In all other cases of alterations/corrections a full signature and date must be attached above, next to or below the said alteration or correction. If not signed in full at the correction the specific item/bid/quotation **will not** be taken into consideration.
- 7.3 Companies must check the numbers of the pages on the bid document and should satisfy themselves that the document is complete and that none of the pages are missing or duplicated before the closing date of the bid. No liability shall be accepted with regard to claims arising from the fact that pages are missing or duplicated.
- 7.4 Where **specific goal points** are claimed on the various SBD 6 forms, the forms must be completed in full, must be signed by the company and both witnesses otherwise the points claimed **will not be considered**.
- 7.5 The bid must be submitted in a sealed envelope. The **correct** bid number and closing date must be clearly indicated on the front of the envelope and the bidder's details on the back. The envelope must be placed in the bid box as indicated, before or on the closing date and time of the bid. On failure to comply the bid **will not be considered**. Bids, which are **received after the closing date and time**, will not be accepted and will be returned to the bidder.

## **8. TAX COMPLIANCE STATUS OF THE BIDDER**

- 8.1 Designated employee(s) must verify the bidder's tax compliance status prior to the awarding of price quotations or competitive bids. Where the bidder is not tax compliant, the bidder must be notified in writing of their non-compliant status and the bidder must be requested to submit written proof from SARS of their tax compliance status or proof that they have made an arrangement to meet their outstanding tax obligations within 7 working days. The bidder should thereafter provide the accounting officer or accounting authority with proof of their tax compliance status which should be verified via the Central Supplier Database or eFiling. Should the recommended bidder fail to provide written proof of their tax compliance status, accounting officers and accounting authorities must reject the bid submitted by the bidder.

## **9. COMPULSORY EXPLANATORY MEETING AND / OR SITE VISIT**

- 9.1 A compulsory explanatory meeting and/or site visit if so required in the bid documents and bid advertisement must be attended. **Failure to attend will invalidate the bid. In case of a joint venture, consortium all companies must attend the meetings and submit their own attendance certificate in the company's name.**
- 9.2 An attendance certificate per company must be signed and stamped by an official of the Department with registration at the meeting. The document/s must be attached in its original to the bid document. Copies of the document will not be accepted.
- 9.3 Information already provided at the meeting will not be repeated to late attendees.
- 9.4 A copy of the minutes of the meeting can be made available to companies on request.

**10. PAYMENT TO SUPPLIERS**

Payments will be handled as prescribed by the PFMA and will normally be effected within 30 days of receipt of all the required documentation, which should be correct in every respect.

**11. LEGISLATION / LAWS**

Companies must comply with the provisions of current Labour Legislation as well as any other relevant legislation or legal requirement.

**12. VALIDITY PERIOD OF BID**

The period for which offers are to remain valid and binding (in order for the Department to finalize it), is indicated in the bid documents (SBD 3.1 / 3.2) and is calculated from the closing day with the understanding that offers are to remain in force and binding until the close of business on the last day of the period calculated and if this day falls on a Saturday, Sunday or Public Holiday, the bid is to remain valid and binding until the close of business on the following working day.

**13. QUANTITIES**

Where quantities are specified in the bid documents the Department cannot guarantee that they will be ordered as such, as it depends on Departmental needs. The Department is not liable for any losses the contractor might suffer for not ordering specific quantities.

Where quantities are specified, "as required" the quantities will be ordered as and when needed.

**14. SAMPLES**

- 14.1 Samples to be submitted (if so required in the bid documents), must be clearly marked with the bid and item number as well as the company's name.

**UNDER NO CIRCUMSTANCES SAMPLES SHALL BE INCLUDED IN THE BID DOCUMENTS.  
SAMPLES INCLUDED IN BID DOCUMENTS WILL NOT BE CONSIDERED**

- 14.2 The samples must be delivered to the addressee mentioned in the bid documents so as to reach him/her not later than the closing date and time of the bid.
- 14.3 Samples shall be supplied by the bidder at his/her own expense and risk.
- 14.3 Samples of the successful company will be kept with the Department until the end of the contract period and will be returned to the company only if so stated in the bid/quotation documents.
- 14.4 All samples provided, which must be returned to the company must be removed on request of the Department at the company's own expense and risk within the specified

period. On failing to comply with, the company will forfeit ownership and the sample shall forthwith be disposed of at the discretion of the Department.

## 15. **BID PRICES**

- 15.1 Prices of bids must be provided for the specific units as required per SBD 3.1/3.2/3.3 forms. The packaging may vary and will be considered unless specific packaging is required.
- 15.2 Bid prices must be all inclusive and no additional cost will be paid for e.g. delivery, VAT, etc.
- 15.3 Bid prices must be indicated on the relevant SBD 3.1/3.2/3.3 form/s unless otherwise requested by the Department.

## 16. **PRICE LISTS**

Price lists **will not be considered** for acceptance of the bid unless it was specifically requested in the bid / quotation documents.

## 17. **SPECIFICATION – COMPANY'S RESPONSE**

Where a specification provides for the company's response to the different points of specification, the bidder's part must be properly completed or the bid or the relevant item will be disqualified. **Where items deviate from the requirement, the deviation must be indicated.**

## 18. **ADJUDICATION OF BID**

- 18.1 Chapter 6 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), that deals with the Register for Tender Defaulters, as well as Regulations made by the Minister of Finance in this regard, are applicable when adjudicating a bid/quotation.
- 18.2 The Department may terminate the bid/contract in whole or in part if representatives of the Department, is in the judgement that the bidder has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 18.3 In the event of a bid being awarded as a result of specific goal points claimed in terms of the revised Preferential Procurement Regulations 2022, the contractor may be required to furnish documentary proof to the satisfaction of the Department.
- 18.3.1 The Department will act against the bidder or person awarded the contract upon detecting that the specific goal points for B-BBEE status level of contribution has been claimed of obtained on a fraudulent basis or any of the contract conditions have not been fulfilled.

- 18.3.2 The Department may, in addition to any other remedy that it may have against the bidder or person:
- 18.3.3 Disqualify the bidder or person from the bidding process;
- 18.3.4 Recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;
- 18.3.5 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;
- 18.3.6 Restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after applying the *audi alteram partem* (hear the other side) rule; and
- 18.3.7 Forward the matter for criminal prosecution.

**19. RESTRICTION OF BUSINESS INTEREST OF EMPLOYEES CONDUCTING BUSINESS WITH THE PROVINCIAL GOVERNMENT**

An employee may not have a business interest in any entity conducting business with the Provincial Government.

**20. COMPLIANCE TO CONTRACT**

- 20.1 The Department will monitor compliance to the contract after adjudication of the bid that include, but need not be limited to, site inspections and the request for documentary proof of compliance with the PFMA and relevant legislation.
- 20.2 Where services are rendered, which involves minimum wages for employees in terms of the sectoral wage determination, the Department reserves the right to request copies of payslips of employees during the period of the contract.

**21. CONTRACT SIGNING**

In response to an invitation to bid, companies must submit bid which in terms of the law represent offers. Once an offer is accepted and a bid is awarded to a successful company, a legal contract comes into existence.

The Department **will not** enter into any other contract than the SDB 7.1 or 7.2 form to be concluded as a result of acceptance of the bid.

**22. FINANCIAL SCHEDULES**

The financial schedule and annexure(s) for breakdown on salaries/wages where applicable, must be fully completed and submitted with the bid.

**23. DECLARATION OF INTEREST**

Failure to declare interest on the part of the company or officials from the Department is unacceptable, which **will** lead to the bid/quotation not being considered.

**24. DESCRIPTIVE LITERATURE / BROCHURES / PAMPHLETS**

If so required, the company must supply descriptive literature, brochures or pamphlets.

Descriptive literature is regarded as text and photos as issued by the original manufacturer.

**25. PERFORMANCE SECURITY / SURETY**

A Performance Security / Surety is not applicable to all bid. Where it is a requirement in a specific bid, it will be indicated in the bid documents as well as the period in which the performance security / surety must be submitted. If so required, it must be provided to the Department within the required period or the Department will have the right to cancel the contract and to claim any damages suffered from the contractor.

**26. ACCREDITED REPRESENTATIVE**

If you are an accredited representative in South Africa for the goods/services offered written proof from the original supplier must be enclosed. (Refer to the SDB 1 form). Failure to do so will result in the offer not being considered.

**27. EQUIPMENT EXCEEDING SPECIFICATIONS**

There might be cases where the specifications do not address latest developments in technology. Where this is the case, the company must indicate next to the specific requirement in the specification to what extent the improved technology is offered. The Department may consider such offers in the adjudication process on condition that full details are provided for comparison purposes.

**28. DELIVERY AND DOCUMENTS**

If so required, details of shipping and/or other documents to be furnished by the supplier are specified in the bid document

**29. INSURANCE**

Insurance as prescribed in the GCC par. 11 is applicable. Specific requirements over and above GCC par. 11 will be specified in the bid/quotation document.

**30. INCIDENTAL SERVICES**

Incidental services if so required will be handled as specified in the bid document.

**31. SPARE PARTS**

Spare parts forms part of the specification of the bid/quotation and must be dealt with as such.

**32. WARRANTY**

- 32.1 Only new, unused goods must be supplied unless otherwise stated in the bid document.
- 32.2 The General Conditions of Contract par. 15 will apply unless otherwise stated in the bid documents.
- 32.3 Suppliers must remedy defect(s) on goods delivered within the period stated in the bid/quotation document or within the period as required by the Department.

**33. PENALTIES**

Penalties will be imposed as per current prime interest rate as prescribed by the General Conditions of Contract par. 22 unless otherwise stated in the bid/quotation document.

**34. SETTLEMENT OF DISPUTES**

The parties hereby agree that in the case of a dispute that cannot be resolved mutually, the dispute will be referred for settlement to the Secretary of the Law Society in the Free State, and in the case of the said Society's unwillingness to hear the dispute, such dispute will be referred to the Chairperson of the Bar Council for the Society for Advocates and/or his/her nominee.

The parties agree that the decision of the presiding officer in the dispute settlement procedure will be final and that neither of the parties will institute legal action against the other following the dispute settlement.

**35. TERMINATION OF CONTRACTS: UNFULFILLED ORDERS**

On termination of the contract, unfulfilled orders will automatically be cancelled and where appropriate, be supplied in terms of any subsequent contract.

**36. CESSION OF CONTRACTS**

The supplier shall not cede, in whole or in part, its obligations to perform under the contract or payments made/or to be made by the Department to the supplier, except with the Department's prior written consent.

**37. ACCEPTANCE OF THE SPECIAL CONDITIONS OF CONTRACT AND GENERAL CONDITIONS OF CONTRACT**

Failure to accept the Special Conditions of Contract and the General Conditions of Contract or any part thereof, may result in the bid/quotation not being considered.

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**38. THE COMPANY MUST COMPLETE THE FOLLOWING:**

I, .....in my capacity as ..... of the company,  
hereby certifies that I took note and accept the above-mentioned Special Conditions of  
Contract.

.....  
**SIGNATURE**

.....  
**CAPACITY**

**Contact person of company:** .....

**Tel. of company: (.....) .....** **Fax of company: (.....) .....**

# **THE NATIONAL TREASURY**

**Republic of South Africa**



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## **GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT**

**July 2010**



## NOTES

The purpose of this document is to:

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

In this document words in the singular also mean in the plural and vice versa and words in the masculine also mean in the feminine and neuter.

- The General Conditions of Contract will form part of all bid documents and may not be amended.
- Special Conditions of Contract (SCC) relevant to a specific bid, should be compiled separately for every bid (if applicable) and will supplement the General Conditions of Contract. Whenever there is a conflict, the provisions in the SCC shall prevail.

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## General Conditions of Contract

### 1. Definitions

1. The following terms shall be interpreted as indicated:
  - 1.1 "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
  - 1.2 "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
  - 1.3 "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
  - 1.4 "Corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.
  - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
  - 1.6 "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
  - 1.7 "Day" means calendar day.
  - 1.8 "Delivery" means delivery in compliance of the conditions of the contract or order.
  - 1.9 "Delivery ex stock" means immediate delivery directly from stock actually on hand.
  - 1.10 "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
  - 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of

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origin and which have the potential to harm the local industries in the RSA.

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

training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.

- 1.25 “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.

## **2. Application**

- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

## **3. General**

- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from [www.treasury.gov.za](http://www.treasury.gov.za)

## **4. Standards**

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

## **5. Use of contract documents and information; inspection.**

- 5.1 The supplier shall not, without the purchaser’s prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The supplier shall not, without the purchaser’s prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier’s performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier’s records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

## **6. Patent rights**

- 6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights

arising from use of the goods or any part thereof by the purchaser.

**7. Performance security**

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

**8. Inspections, tests and analyses**

- 8.1 All pre-bidding testing will be for the account of the bidder.
- 8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.

8.7 Any contract supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.

8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

#### **9. Packing**

9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

#### **10. Delivery and documents**

10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in SCC.

10.2 Documents to be submitted by the supplier are specified in SCC.

#### **11. Insurance**

11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the SCC.

#### **12. Transportation**

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

#### **13. Incidental services**

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

- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
- (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
- (c) furnishing of a detailed operations and maintenance manual

- for each appropriate unit of the supplied goods;
- (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
- (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.

#### **14. Spare parts**

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

- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
- (b) in the event of termination of production of the spare parts:
  - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
  - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

#### **15. Warranty**

15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.

15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.

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

15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.

15.5 If the supplier, having been notified, fails to remedy the defect(s)



within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

**16. Payment**

- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated in SCC.

**17. Prices**

- 17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.

**18. Contract amendments**

- 18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.

**19. Assignment**

- 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.

**20. Subcontracts**

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

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

- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 The right is reserved to procure outside of the contract small quantities

or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.

21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.

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

## **22. Penalties**

22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

## **23. Termination for default**

23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:

- (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
- (b) if the Supplier fails to perform any other obligation(s) under the contract; or
- (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.

23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.

23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.

23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.

23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:

- (i) the name and address of the supplier and / or person restricted by the purchaser;
- (ii) the date of commencement of the restriction
- (iii) the period of restriction; and
- (iv) the reasons for the restriction.

These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.

23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

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

24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in

terms of the contract or any other contract or any other amount which may be due to him

**25. Force  
Majeure**

- 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- 25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

**26. Termination  
for insolvency**

- 26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.

**27. Settlement of  
Disputes**

- 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- 27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 27.5 Notwithstanding any reference to mediation and/or court proceedings herein,
- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
  - (b) the purchaser shall pay the supplier any monies due the supplier.

**28. Limitation of  
liability**

- 28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;
- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

- (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.
- 29. Governing language** 29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
- 30. Applicable law** 30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
- 31. Notices** 31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice
- 31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.
- 32. Taxes and duties** 32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.
- 33. National Industrial Participation Programme (NIP)** 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.
- 34 Prohibition of Restrictive practices** In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
- 34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

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

Js General Conditions of Contract (revised July 2010)

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