



## sport, arts & culture

Department:  
Sport, Arts and Culture  
REPUBLIC OF SOUTH AFRICA

Private Bag X897, Pretoria 0001 – Sechaba House, 202 Madiba Street and Paul Kruger, Pretoria 000  
Tel: (012) 441 3000, Fax: (012) 441 3699

Enquiries : Mr. Tuelo Thubisi/ Ms. Tshepiso Ramatapa

Tel : 012 441 3504/ 012 441 3173 Reference : DSAC 13/23-24

### THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN ASSESSMENT STUDY OF MUNICIPAL THEATRES ACROSS THE COUNTRY

#### REQUIRED BY: DEPARTMENT OF SPORT, ARTS & CULTURE

1. Kindly furnish the Department with a bid for the services shown on the attached forms.
2. The General Conditions of Contract (GCC) as well as the SBD1, SBD3.3, SBD 4, SBD 6.1, forms are attached for completion.
3. These forms must be returned with your bid. Bid documents and the budget proposal must be submitted stipulating the following information: Name and Address of the Bidder, Bid Number and Closing Date of the Bid. **Interested parties are requested to provide one original, one copy of the original document and one electronic copy (in a form of USB) of original documents.**
4. All bids forwarded by postal services must be addressed to: The Director-General, Department of Sport, Arts and Culture, Sechaba House, 202 Madiba Street, Pretoria, 0001, attention: Director Supply Chain Management  
  
Bids to reach this address no later than the closing date and time. Alternatively, bids may be deposited by hand at the Department of Sport, Arts and Culture, Sechaba House, Cnr Paul Kruger & Madiba Streets, Pretoria.
6. The closing date for the tender is on the **08 December 2023** at 11:00am.

  
MS REFILWE ZULU

DIRECTOR: SUPPLY CHAIN MANAGEMENT

DATE: 10/11/2023

## PART A INVITATION TO BID

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)</b>							
BID NUMBER:		DSAC 13/23-24		CLOSING DATE:		08 December 2023	
				CLOSING TIME:		11AM	
DESCRIPTION		THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN ASSESSMENT STUDY OF MUNICIPAL THEATRES ACROSS THE COUNTRY.					
<b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)</b>							
DEPARTMENT OF SPORT, ARTS AND CULTURE							
202 MADIBA STREET							
PRETORIA							
0001							
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>				<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>			
CONTACT PERSON		MR TUELO THUBISI		CONTACT PERSON		MR THEMBA LUTHULI	
TELEPHONE NUMBER		072 604 7259		TELEPHONE NUMBER		072 772 6299	
FACSIMILE NUMBER		N/A		FACSIMILE NUMBER		N/A	
E-MAIL ADDRESS		<a href="mailto:tueloth@dsac.gov.za">tueloth@dsac.gov.za</a>		E-MAIL ADDRESS		<a href="mailto:thembal@dsac.gov.za">thembal@dsac.gov.za</a>	
<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]		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX]	
		<input type="checkbox"/> Yes <input type="checkbox"/> No				<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	
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.							

## PART B TERMS AND CONDITIONS FOR BIDDING

<p><b>1. BID SUBMISSION:</b></p> <p>1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.</p> <p>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></p> <p>1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.</p> <p>1.4. <b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).</b></p>	<p><b>2. TAX COMPLIANCE REQUIREMENTS</b></p> <p>2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.</p> <p>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.</p> <p>2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.</p> <p>2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.</p> <p>2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.</p> <p>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.</p> <p>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."</p>
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**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: .....

**PRICING SCHEDULE**  
**(Professional Services)**

NAME OF BIDDER: .....	BID NO.: DSAC 13/23-24
CLOSING TIME 11:00am	CLOSING DATE 08 December 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)	
1.	The accompanying information must be used for the formulation of proposals.		
2.	Bidders are required to indicate a ceiling price based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project.	R.....	
3.	PERSONS WHO WILL BE INVOLVED IN THE PROJECT AND RATES APPLICABLE (CERTIFIED INVOICES MUST BE RENDERED IN TERMS HEREOF)		
4.	PERSON AND POSITION	HOURLY RATE	DAILY RATE
	.....	R.....	.....
	.....	R.....	.....
	.....	R.....	.....
	.....	R.....	.....
	.....	R.....	.....
5.	PHASES ACCORDING TO WHICH THE PROJECT WILL BE COMPLETED, COST PER PHASE AND MAN-DAYS TO BE SPENT		
	.....	R.....	..... days
	.....	R.....	..... days
	.....	R.....	..... days
	.....	R.....	..... days
5.1	Travel expenses (specify, for example rate/km and total km, class of airtravel, etc). Only actual costs are recoverable. Proof of the expenses incurred must accompany certified invoices.		
	DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY AMOUNT
	.....	.....	R.....
	.....	.....	R.....
	.....	.....	R.....
	.....	.....	R.....
		TOTAL: R.....	

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

Name of Bidder: .....

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

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

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

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

Any enquiries regarding bidding procedures may be directed to the –

#### DEPARTMENT OF SPORT ARTS AND CULTURE

Mr Tuelo Thubisi  
 Email: [Tuelot@dsac.gov.za](mailto:Tuelot@dsac.gov.za)  
 Tel: 072 604 7259

Ms Tshepiso Ramatapa  
 Email: [Tshepiso@dsac.gov.za](mailto:Tshepiso@dsac.gov.za)  
 Tel: 072 751 8018

Or for technical information –

Mr Themba Luthuli  
 Tel: 072 772 6299  
 Email: [thembal@dsac.gov.za](mailto:thembal@dsac.gov.za)

## BIDDER'S DISCLOSURE

### 1. PURPOSE OF THE FORM

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

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

### 2. Bidder's declaration

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

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

Full Name	Identity Number	Name of State institution

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

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

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

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

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

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

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

The maximum points for this tender are allocated as follows:

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

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

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

### 2. DEFINITIONS

(a) **“tender”** means a written offer in the form determined by an organ of state in

response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

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

### 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

#### 3.1. POINTS AWARDED FOR PRICE

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

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

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

Where

- Ps = Points scored for price of tender under consideration
- Pt = Price of tender under consideration
- Pmin = Price of lowest acceptable tender

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

##### 3.2.1. POINTS AWARDED FOR PRICE

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

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

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.)***

The specific goals allocated points in terms of this tender (B-BBEE 10 points, Specific goals 10 points)	Achievement Level	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)
<b>PROMOTION OF SMMEs (RDP GOALS)</b>		20	
<b>Women</b>	100% women ownership	6	
	75% - 99% women ownership	5	
	60% - 74% women ownership	4	
	51% - 59% women ownership	3	

	0 – 50% women ownership	0	
<b>Black People</b>	100% black ownership	7	
	75% - 99% black ownership	6	
	60% - 74% black ownership	5	
	51% - 59% black ownership	3	
	0 – 50% black ownership	0	
<b>Youth</b>	100% youth ownership	5	
	75% - 99% youth ownership	3	
	60% - 74% youth ownership	2	
	51% - 59% youth ownership	1	
	0 – 50% youth ownership	0	
<b>People living with Disabilities</b>	75% - 100% owned by persons living with disabilities	2	
	51% - 74% owned by persons living with disabilities	1	
	0 - 50% owned by persons living with disabilities	0	

#### DECLARATION WITH REGARD TO COMPANY/FIRM

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

4.4. Company registration number: .....

4.5. TYPE OF COMPANY/ FIRM

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

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

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

addition to any other remedy it may have –

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

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



**sport, arts & culture**

Department:  
Sport, Arts and Culture  
REPUBLIC OF SOUTH AFRICA

Private Bag X897 | VWL Building | 202 Madiba Street | Pretoria, 0001 |  
Email: [info@dsac.gov.za](mailto:info@dsac.gov.za) | Tel: 012 441 3000 | Fax: 012 441 3699

Private Bag X9015 | Room 1621 | 120 Plein Street | Cape Town, 8000 |  
Email: [info@dsac.gov.za](mailto:info@dsac.gov.za) | Tel: (021) 465 5620 | Fax: (021) 465 5624



## THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN ASSESSMENT STUDY OF MUNICIPAL THEATRES ACROSS THE COUNTRY.

### TERMS OF REFERENCE

DSAC ...13/23-24

**SUBJECT: THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN ASSESSMENT STUDY OF MUNICIPAL THEATRES ACROSS THE COUNTRY.**

**CLOSING DATE AND TIME OF BID:  
08 DECEMBER 2023 AT 11H00AM**

### VIRTUAL BRIEFING SESSION

**DATE: 17 November 2023**

**TIME: 11H00**

**LINK: <https://rb.gy/c18gx>**

**BID VALIDITY PERIOD: 120 DAYS**



@SportArtsCultur



@SportArtsCultureRSA



**sport, arts & culture**

Department:  
Sport, Arts and Culture  
REPUBLIC OF SOUTH AFRICA

**Inspiring A Nation Of Winners**



## THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN ASSESSMENT STUDY OF MUNICIPAL THEATRES ACROSS THE COUNTRY.

### 1. INTRODUCTION

The Department of Sport, Arts and Culture (DSAC) seeks to appoint a service provider to conduct an assessment study of municipal theatres across the country for a period of eight (eight) months.

### BACKGROUND

The Department is mandated by 2017 Revised White Paper on Arts, Culture and Heritage Sector to create and establish infrastructural facilities (theatres) in consultation with Municipalities and Provincial Departments for South African Theatre and Dance Practitioners across the country. The audit study shall quantify how many municipal theatres exist in the country, functional status (staffing, operational physical conditions), geographical positions (coordinates), artistic programmes, who is owning and managing them, who are the actual users, which areas do they services and closest facilities (cultural institution; playhouse; arts center; museum; art gallery; library; museum or art studio). The purpose of this exercise is to ensure that DSAC aligns its interventions with existing facilities in the future.





## THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN ASSESSMENT STUDY OF MUNICIPAL THEATRES ACROSS THE COUNTRY.

### 2. SCOPE AND EXTENT OF THE TENDER / TASK DIRECTIVE

The Department of Sport, Arts and Culture requires the services of a duly experienced and knowledgeable service provider in undertaking the following tasks:

	TASKS	YES/NO/ NOTED
	<b>SCOPE AND DELIVERABLES</b>	
3.1.	Conduct an assessment study of municipal theatres across the country.	
3.2.	Submit a specific implementation plan with timeframes, detailed budget breakdown referring to 3.1 above.	
3.3.	Submit an assessment study report with actual numbers of Municipal Theatres across the country, geographical positions (coordinates), functional status (staffing, operational and physical conditions), artistic programmes, ownership and managing status, actual users, which areas do they services and their proximity to existing facilities such as cultural institutions; playhouses; arts centres; museums; art galleries; libraries; art studios etc.	
3.4.	Project delivery outcomes expected to be achieved by the appointed service provider within a period of eight months (08) months are as follows:	





## THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN ASSESSMENT STUDY OF MUNICIPAL THEATRES ACROSS THE COUNTRY.

TASKS	YES/NO/ NOTED
3.4.1 produce and submit a concise assessment study report addressing all all issues mentioned on point 3.3. above. The report must be submitted within the specified project timeframe.	

### 4. LEGISLATIVE AND REGULATORY FRAMEWORK

- 4.1. This bid and all contracts emanating from this bid will be subject to the General Conditions of Contract issued in 2010 in accordance with of the Treasury Regulations 16A, published in terms of the Public Finance Management Act, 1999 (Act 1 of 1999). The Special Conditions of Contract are supplementary to that of the General Conditions of Contract of 2010. Where, however, the Special Conditions of Contract are in conflict with the General Conditions of Contract, the Special Conditions of Contract takes precedence.

### 5. GENERAL CONDITIONS OF CONTRACT

- 5.1. The Department may investigate possible fronting by any bidder and any bidder found to be fronting will be disqualified and blacklisted.
- 5.2. The service provider may not recruit or shall not attempt to recruit an employee of the Department of Sport, Arts and Culture for purposes of preparation of the bid or for the duration of the execution of this contract or any part thereof.





## THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN ASSESSMENT STUDY OF MUNICIPAL THEATRES ACROSS THE COUNTRY.

- 5.3. All bidders are required to submit details of shareholdings status as follows: shareholder certificate with the names of directors and percentage of ownership and ID copies.
- 5.4 The bidder must take note that they may not subcontract more 25% of total work to be done.

### 6. EVALUATION STAGES

- 6.1 The bid evaluation process consists of several stages that are applicable as defined in the table below:

Stage	Description	Applicable for this bid
Stage 1	Initial screening process to check compliance with bid requirements.	Yes
Stage 2	Functionality requirement evaluation.	Yes
Stage 3	Price versus points awarded for specific goals	Yes

#### 6.1.1 Stage 1:

Verification of service provider (s) compliance with bid requirements and initial screening process.





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### 6.1.2. Stage 2:

The Technical proposal will be evaluated out of 100 points with a threshold of 70 points. Bidders that score less than minimum of 70 points will be disqualified. Bidders must score a minimum of 70 or more points to qualify for further evaluation on price and preference points.

### 6.1.3. Stage 3:

Bids will then be evaluated in accordance with the prescripts of the Preferential Procurement Policy Framework Act (PPPFA) and the associated Preferential Procurement Regulations of 2022, which stipulate a 80/20 preference point system is applicable up to a rand value of R50 million (all applicable taxes included).

- The following criteria will be used in particular as the criteria for appointment, apart from those laid down in the Preferential Procurement Regulations, 2022, pertaining to the Preferential Procurement Policy Framework Act 5 of 2000.
- **NB: Bidders are required to submit the following proof/documentation to claim points for specific goals:**
  - a. **An affidavit by the person or person acting on behalf of an enterprise indication the level of ownership in the enterprise by persons historically disadvantaged by unfair discrimination based on race, gender, age, and disability (submit copies of Id's to support the Affidavit) or**





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### b. Ownership Certificate issued by the Companies and Intellectual Property Commission (CIPC)

**Failure to submit the required documents will result in 0 points for specific goals.**

Points will be awarded as follows;

No	Components	Points
1.	Price	80
2.	Point awarded to a specific goal as per the SBD 6.1. attached to this bid	20
	<b>Total</b>	<b>100</b>

## 7. EVALUATION PROCESS

- 7.1. The 80/20 preference point system in terms of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) shall apply. The lowest acceptable bid will score 80 points for price and remaining 20 points will be awarded to a specific goal as stipulated in the SBD 6.1 attached to this bid.
- 7.2. Prospective bidders will have to score at least 70 out of 100 points allocated for functionality before the company's proposal will be considered for pricing.





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### 8. BID REQUIREMENTS

#### General requirements

The following is required of bidders and should be submitted to the department as part of the bid submission:

- 8.1. Company profile.
- 8.2. All Bidders must be registered on the National Treasury Central Supplier Database (CSD) and must attach a copy of the most recent report to the tender document.
- 8.3. The tax status on CSD must be compliant, as Department is unable to award a contract to a company whose tax affairs are not in order as determined by SARS. Bidders whose tax matters have expired or compliance status is invalid will be disqualified. **Note that it is no longer a requirement for bidders to submit hard copies of tax clearance certificates as compliance to tax matters can be assessed and verified on the CSD report.**
- 8.4. Original Company Resolution or Letter of authority or Letter of appointment authorizing the signatory of the Entity to sign the contract with the Department.
- 8.5. Valid contact details including e-mail address.
- 8.6. Certified ID copies of all Directors.
- 8.7. Reference letters must be provided, as well as an indication of experience with similar projects.





## THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN ASSESSMENT STUDY OF MUNICIPAL THEATRES ACROSS THE COUNTRY.

- 8.8. Companies, who registered for VAT, should include VAT on their costing.
- 8.9. Any other details that may be relevant in respect of the tender evaluation criteria described above:

### Technical requirements

- A detailed proposal including:
    - (a) Project plan;
    - (b) Project Implementation plan;
    - (c) Detailed Cost breakdown
    - (d) Capacity and experience of human resources;
    - (e) Number and level/ranks of team member/s to be involved in the assignment;
    - (f) CVs of all involved (including but not limited to: qualifications and experience and level of expertise/current designation; relevant professional membership).
- 8.10. All bidders are required to submit details of Shareholder status as follows:
- Shareholder certificates with the names of Directors and percentage of ownership.
  - Identity Documents of all Shareholders

## 9. EVALUATION CRITERIA

- All bids duly lodged will be evaluated by a panel first on functionality then price.





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- For purposes of comparison and in order to ensure meaningful evaluation, bidders are requested to furnish detailed information in substantiation of compliance to each of the evaluation criteria mentioned below.

	Criteria	Value Rating Points
9.1.	<p><b>EXPERIENCE IN RENDERING A SIMILAR SERVICE</b></p> <p>All bidders must have a minimum of 3 successful projects completed in the past 5 years conducting assessment study of private or public facilities within Arts, Culture and Heritage Sector.</p> <p>In order to substantiate the above the service provider must provide:</p> <p>Reference letters from previous or existing clients not more than 5 years old.</p> <p>a) 1- 3 Projects = 03 points b) 04 – 05 Projects = 15 points c) 06– 08 Projects = 20 points d) 9 and other above Projects = 30 points</p>	30 points
9.2.	<p><b>Experience of Team Leader and project team</b></p> <p><b>Team Leader Expertise and experience (15 points)</b></p> <p>A team leader must have at least 5 years or more in conducting Assessment, Research or Impact Studies with a post graduate</p>	30 points





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	Criteria	Value Rating Points
	<p>qualification in Arts, Culture and Heritage Sector. Successful bidder to submit cv and certified copy of the qualification.</p> <p><b>The project team's expertise and experience (15 points)</b></p> <p>Attach a list of a project team (researcher/s, accountant/s, architect/s) and their certified copies of qualifications and resumes. Project team must have a minimum qualification of a Diploma with 3-year experience and expertise in Arts, Culture and Heritage. Practical knowledge and understanding of Assessment, Research or Impact Studies</p> <ul style="list-style-type: none"> <li>- Attached CVs which show the type of expertise and experience in relevant projects</li> </ul>	
9.3.	<p><b>Practical and clear project plan which demonstrates a clear understanding of the project objective</b></p> <ul style="list-style-type: none"> <li>• The bidder is expected to submit a detailed action plan with a fully costed budget breakdown = 25 points</li> <li>• In doing so the bidder should also articulate the problem which this project aims to address. = 5 points</li> </ul>	40 points





## THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN ASSESSMENT STUDY OF MUNICIPAL THEATRES ACROSS THE COUNTRY.

	Criteria	Value Rating Points
	<ul style="list-style-type: none"> <li>Propose potential interventions to transform the landscape of Municipal Theatres across the country. = 05 points</li> <li>Ability to map the project flow from beginning to end with clear timeframes. = 05 points</li> </ul>	
	<b>TOTAL</b>	100

### 10. CONFIDENTIALITY

- 10.1. No information or documentation may be used for any other purpose other than providing for a tender proposal to the Department, and no copies of any document may be made, except with prior written approval from the Department.
- 10.2. The successful bidders and staff will be required to sign a non-disclosure agreement.

### 11. INTELLECTUAL PROPERTY AND OWNERSHIP

- 11.1. Ownership and copyright of all documentation developed during the period of the contract will be vested in the Department of Sport, Arts and Culture.
- 11.2. All intellectual property rights relating to any work produced by the service provider in relation to the performance of this contract shall belong to the





## THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN ASSESSMENT STUDY OF MUNICIPAL THEATRES ACROSS THE COUNTRY.

Department and may not be used for any other purpose by the service provider. The service provider shall give the Department all assistance in protecting such intellectual property rights. All material, in paper, electronic or any recorded format produced by the service provider in the performance of this contract shall remain the property of the Department of Sport, Arts and Culture and must be handed over to the Department on termination of the contract.

- 11.3. All service providers undertake not to infringe the intellectual property of third parties. Should any action or claim be instituted against the Department emanating from an infringement of intellectual property or an alleged infringement of intellectual property, the service providers hereby indemnify the Department against such claims or actions as well as all costs (including legal costs on an attorney and client scale).

## 12. CONTRACTUAL ARRANGEMENT

- 12.1. The service provider is required to enter into a Service Level Agreement with the Department of Sport, Arts and Culture to perform all functions as set out in the project Specification or Terms of Reference and National Treasury General Conditions of Contract of 2010.
- 12.2. The project should be completed by the 31 May 2024 starting from the date of appointment.

## 13. FINANCIAL IMPLICATIONS





## THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN ASSESSMENT STUDY OF MUNICIPAL THEATRES ACROSS THE COUNTRY.

- 13.1. No service will be provided to the Department before an official order has been issued to the supplier or service provider.
- 13.2. The service provider should be aware that DSAC only pays after the services have been rendered.
- 13.3. Payments will be done within 30 days of receipt of an invoice with all required supporting documents as per the Service Level Agreement.
- 13.4. Payments will be made by the Department after the service provider has submitted an invoice supported by all requisite documents.
14. **CLIENT BASE**
  - 14.1. The Department of Sport, Arts and Culture reserves the right to contact references during the evaluation and adjudication process to obtain information.
15. **COMMUNICATION**
  - 15.1. The Department of Sport, Arts and Culture may communicate with bidders for, among others, where bid clarity is sought, to obtain information or to extend the validity period.
16. **PRESENTATION**
  - 16.1. The Department of Sport, Arts and Culture may request presentations and or interviews from short-listed bidders as part of the bid process.
17. **SUPPLIER DUE DILIGENCE**





## THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN ASSESSMENT STUDY OF MUNICIPAL THEATRES ACROSS THE COUNTRY.

17.1. The State reserves the right to conduct supplier due diligence prior to final award or at any time during the contract period. **Bidders must note that the Department may conduct verification on the information submitted and any misrepresentation will result in an automatic disqualification.**

### 18. CONFLICT OF INTEREST

18.1. The bidder or bidders group must submit a document (you may include it in your covering letter), stating whether any of its employees have any interest in the Department or whether any of Department's personnel have any interest in the bidders or affiliated business.

### 19. COMPULSORY BRIEFING SESSION

19.1. The department will hold the non-compulsory virtual briefing session as follows:

Date: 17 November 2023

Time: 11H00

Link: <https://rb.gy/c18gx>

### 20. PACKAGING AND SUBMISSION OF BIDS DOCUMENTS

20.1. Bidders to arrange the Standard Bidding Documents (SBDs) in your submission numerically and orderly.





## THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN ASSESSMENT STUDY OF MUNICIPAL THEATRES ACROSS THE COUNTRY.

- 20.2. Bidders are advised to ensure that bids are submitted allowing sufficient time for any unforeseen events that may delay the delivery of the bid and time to access the premises because of security arrangements when entering the department main entrance.
- 20.3. **Bidders are requested to provide one original hard copy and one electronic copy (submitted in USB), and one copy of the original document.**
- 20.4. All bidders are required to complete a bid register fully, when submitting bid documents. The Bid register is available at the below-mentioned address.
- 20.5. Bidders should deposit their documents into the tender box available on the Ground Floor reception area by not later than **11H00am** on 08 December 2023 at the address below:

**Department of Sport, Arts and Culture, Sechaba House,**

**202 Madiba Street, Cnr Madiba and Paul Kruger Streets, Pretoria**

### 21. **COST OF BIDDING**

- 21.1. The bidder shall bear all costs associated with the preparation and submission of its bid and the Department, will no case be held responsible or liable for these costs, regardless of the conduct or outcome of the tender process. The bidder will not be entitled to claim for travel and subsistence expenses. If such expenses are applicable, these charges must be included in the bid price.





## THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN ASSESSMENT STUDY OF MUNICIPAL THEATRES ACROSS THE COUNTRY.

### 22. PRICE OR FEES NEGOTIATION

- 22.1. The Department may negotiate the price or fees with the preferred bidder/s during a competitive bidding process.

### 23. LATE BIDS

- 23.1. Bids received after the closing date and time will not be accepted for consideration. Bids documents should be submitted before 11:00 on the closing date of the tender.

### 24. BID AND TECHNICAL ENQUIRIES / CLARIFICATION OF TENDER DOCUMENTS

- 24.1. The Department will respond in email to any request for clarification of the tender documents which it receives **no later than one (1) week prior to the deadline for submission of bids prescribed by the Department.** All enquiries related to the technical content of the Terms of Reference as well as the bid enquires may be directed **in writing** to the officials listed below:

#### For Bid Enquiries

Mr Tuelo Thubisi

Tel: 072 604 7259

Email: [Tueloth@dsac.gov.za](mailto:Tueloth@dsac.gov.za)





## THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN ASSESSMENT STUDY OF MUNICIPAL THEATRES ACROSS THE COUNTRY.

Ms. Tshepiso Ramatapa
Tel: 072 751 8018
Email: <a href="mailto:Tshepisor@dsac.gov.za">Tshepisor@dsac.gov.za</a>
<i>For Technical Enquiries:</i>
Mr Themba Luthuli
072 772 6299
Email: <a href="mailto:thembal@dsac.gov.za">thembal@dsac.gov.za</a>
Ms Nontutuzelo Sekhabi
076 603 7632
Email: <a href="mailto:NontutuzeloS@dsac.gov.za">NontutuzeloS@dsac.gov.za</a>



# **THE NATIONAL TREASURY**

**Republic of South Africa**



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

**July 2010**

**GOVERNMENT PROCUREMENT**  
**GENERAL CONDITIONS OF CONTRACT**  
**July 2010**

**NOTES**

The purpose of this document is to:

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

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

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

## **TABLE OF CLAUSES**

1. Definitions
2. Application
3. General
4. Standards
5. Use of contract documents and information; inspection
6. Patent rights
7. Performance security
8. Inspections, tests and analysis
9. Packing
10. Delivery and documents
11. Insurance
12. Transportation
13. Incidental services
14. Spare parts
15. Warranty
16. Payment
17. Prices
18. Contract amendments
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
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25. Force Majeure
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27. Settlement of disputes
28. Limitation of liability
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30. Applicable law
31. Notices
32. Taxes and duties
33. National Industrial Participation Programme (NIPP)
34. Prohibition of restrictive practices

## **General Conditions of Contract**

### **1. Definitions**

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

RSA.

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

obligations of the supplier covered under the contract.

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

## **2. Application**

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

## **3. General**

- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from [www.treasury.gov.za](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.
<b>29. Governing language</b>	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.
<b>30. Applicable law</b>	30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
<b>31. Notices</b>	<p>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</p> <p>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.</p>
<b>32. Taxes and duties</b>	<p>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.</p> <p>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.</p> <p>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.</p>
<b>33. National Industrial Participation Programme (NIP)</b>	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.
<b>34 Prohibition of Restrictive practices</b>	<p>34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).</p> <p>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.</p>

- 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.