



Reference number: WCPT 02/2025/26

Enquiries: Ms. T Ndlazi

Private Bag X9165

CAPE TOWN

8000

INVITATION TO BID

DESCRIPTION:

**WCPT 02/2025/26: TERMS OF REFERENCE FOR THE APPOINTMENT OF A PANEL OF EXPERTS TO ASSIST BY
TECHNICALLY EVALUATING PROJECT PROPOSALS FOR INFRASTRUCTURE FUNDING OPPORTUNITIES FOR A
THREE (3) YEAR PERIOD**

CLOSING DATE: 10 JULY 2025 AT 11:00

TENDER BOX:

**PROVINCIAL TREASURY
GROUND FLOOR (FOYER)
4 DORP STREET
TOWER BLOCK
CAPE TOWN**

SECTION A INFORMATION TO THE BIDDERS

1. INTRODUCTION

- 1.1 The Provincial Treasury hereby invites bids from prospective service providers who will be appointed into a panel of qualified experts to provide technical evaluation of infrastructure funding proposals in order to build a credible pipeline of investment ready, bankable infrastructure projects.
- 1.2 The bidder(s) is expected to examine all instructions, forms, terms and specifications in the bidding documents. Failure to furnish all information required by the bidding documents may result in the rejection of its bid.

2. DURATION OF THE CONTRACT

- 2.1 The successful bidder(s) will be appointed to the panel of experts for use by the Western Cape Provincial Treasury, to provide support and assistance Departments, Municipalities and Entities for a period of three (3) years.

3. TIMELINES OF THE BID PROCESS

Activity	Due date
Advertisement of Bid in the National Treasury e-Tenders Portal: https://etenders.gov.za/Tenders	09 June 2025
Bid Closure	10 July 2025
Presentation by shortlisted Bidders to BEC	TBC
Notification of Successful Bidder(s)	01 August 2025
Notice to all bidders https://etenders.gov.za/Tenders	14 July 2025
Validity of Bids after Bid Closure is 90 days. However, circumstance may arise whereby the Provincial Treasury may request the bidders to extend the validity (binding) period. Should this occur, the Department will request bidders to extend the validity (binding) period under the same terms and conditions as originally tendered by the bidders. This request will be done before the expiry of the original validity (binding) period.	

4. CENTRAL SUPPLIER DATABASE

- 4.1 Bidders must be registered on the Central Supplier Database (CSD) at the time of the award. Failure to be actively registered on the CSD by the time of award will result in the disqualification of the bid.
- 4.2 If you wish to apply for CSD registration, suppliers may go to www.csd.gov.za to register.
- 4.3 Bidders must ensure that all the documentation on the CSD is updated, complete and valid.
- 4.4 Bidders are also required to submit the latest CSD registration summary report. Bidders must ensure that their tax information on the CSD is up to date.
- 4.5 The bidders should furthermore note that CSD will be utilised to conform compliance to tax and other related matters and it is therefore the bidder's responsibility to ensure compliance in all respects.

5. WESTERN CAPE SUPPLIER EVIDENCE BANK (WCSEB)

- 5.1 All prospective service providers intending to do business via the **ePS** must **additionally** be registered on the Western Cape Supplier Evidence Bank (WCSEB)

- 5.2 All prospective service providers are invited to register online as a supplier on the Western Cape e-Procurement Solution. Enquiries regarding the registration process may be referred to wcseb@westerncape.gov.za
- 5.3 It is required that all bidders be registered on the Western Cape Supplier Evidence Bank (WCSEB) at the time of invitation and award.
- 5.4 Bidders bear the responsibility of ensuring that any documents that are housed and appear on the WCSEB, are fully accurately completed and valid at the time of bid closure.

6. INSTRUCTION TO BIDDERS

- 6.1 Bidders are required to submit their proposals in a sealed envelope. The envelope must contain the technical proposal and be clearly marked: "WCPT 02/2025/26: the APPOINTMENT OF A PANEL OF EXPERTS TO ASSIST BY TECHNICALLY EVALUATING PROJECT PROPOSALS FOR INFRASTRUCTURE FUNDING OPPORTUNITIES, FOR A THREE (3) YEAR PERIOD"
- 6.2 This must either be:
- (i) deposited in the bid box marked: "Provincial Treasury" situated at:
Ground Floor (Foyer)
4 Dorp Street (c/o Dorp and Keerom Street)
Tower Block
CAPE TOWN
8001
Or
 - (ii) couriered to:
For attention: Mr Neo Rhapale
Provincial Treasury
4 Dorp Street (c/o Dorp and Keerom Street)
1st Floor, Tower Block
CAPE TOWN
8001

7. CONTACT DETAILS

- 7.1 For more detailed information regarding the bid procedure, specification and technical queries, please contact the following:
- (a) Bid Procedure enquiries:
Mr Neo Rhapale @ Neo.Rhapale@westerncape.gov.za
 - (b) Specification and technical enquiries:
Ziyaad Majiet
Email: Ziyaad.Majiet@westerncape.gov.za
Tel: (021) 483 5243
- 7.2 Potential bidders are required to send any enquiries related to the bid in writing to the abovementioned officials. All enquiries should be sent to the Department on or before the close of business day, 24 of June 2025.
- 7.3 Bidders should note that all questions received will be consolidated and responses will be sent to all the bidders who had requested the bid documents.

8. COMMUNICATION

Please initial.....

- 8.1 Provincial Treasury may communicate with bidders for, among others, where bid clarity is sought, to obtain information or to extend the validity period. Any communication either by an electronic mail or letter or any other form of correspondence to any department official, department or a person acting in an advisory capacity for the Provincial Treasury in respect of this bid between the closing date and the award of the bid by the bidder is prohibited.

9. GENERAL BID CONDITIONS

- 9.1 All bids are subject to the General Conditions of Contract of Government (GCC).
- 9.2 Bid documents will only be considered if received by the Department before the closing date and time.
- 9.3 Late bids will not be accepted.
- 9.4 Please note:
- (a) It is the bidder's responsibility to ensure that all the required documents of the bid are submitted.
 - (b) A bid document checklist has been attached as **Annexure A**. Bidders are required to complete the checklist and submit it with their bids. All the information listed on the bid document checklist must be included in the bid.
 - (c) No correspondence will be entered into regarding non submission/attachment of required documents. Failure to submit the required documents will render the bid non-responsive.
- 9.5 Only offers by bidders who bid for a complete service in respect of all services specified, will be considered.
- 9.6 The Western Cape Provincial Treasury (WCPT) is not bound to accept any of the proposals submitted.
- 9.7 All bids submitted must remain valid for **90 days** from date of submission.
- 9.8 The WCPT further reserves the right to request the bidders to deliver presentations to obtain more clarity on bids submitted.
- 9.9 Information in substantiation of the proposals can at any point in time be verified by the WCPT during the adjudication process. Any information provided will be treated with the utmost confidentiality.
- 9.10 Bidders may not contact the WCPT on any matter pertaining to their bid from the bid closure date to the time the bid is awarded. Any effort by a bidder(s) to influence the bid evaluation, bid comparisons or bid award decisions, in any manner, will result in rejection of the bid concerned.
- 9.11 All educational qualifications should be from a South African accredited institution/s otherwise, **if from a foreign institution, they should be accredited by the South African Qualification Authorities (SAQA).**
- 9.12 Bidders must not have been convicted of criminal offence as per the Criminal Procedure Act 51 of 1977 and its amendments, and any other relevant legislation.
- 9.13 Where the service provider will be insourcing/subcontracting resources, this must be clearly indicated in the bid document. Bidders intending to insource/subcontract must disclose such information on their WCBD 6.1 form and provide the sub-contractors information. (Please refer to paragraph 9 of the WCBD 6.1 form).

- 9.14 Proof of qualifications, CVs, B-BBEE Certificate/Sworn Affidavit and Central Supplier Database (CSD) Report of the insourcing/subcontracting resource/s must be submitted as part of the bid documents, along with the requirements of the main resources.

9.15 Intellectual Property and Confidentiality

- 9.15.1 The ownership of and all rights in and to intellectual property owned by either Party prior to the commencement of the contract shall be and remain vested with the Party who, at the commencement of the contract, is the owner thereof.
- 9.15.2 Subject to the provisions of clause 9.15.1, the successful bidder shall retain all intellectual property rights in any materials and the like of whatsoever nature developed by it for the Western Cape Government in the course of rendering the services required in terms of these Terms of Reference. The successful bidder shall, however, grant to the Western Cape Government, a perpetual, irrevocable, world-wide, non-exclusive and non-transferable royalty-free and fee-free licence to use and adapt the intellectual property in such materials/reports and the like for the purpose of any future programmes that the Western Cape Government may require.
- 9.15.3 Ownership of all intellectual property in any reports that was specifically developed or generated by the successful bidder for the Provincial Treasury pursuant to these Terms of Reference shall vest in Provincial Treasury.
- 9.15.4 The successful bidder shall not use or allow any third party to use any of the documentation and materials specifically developed by the successful bidder for and with input from the Western Cape Government pursuant to these Terms of Reference without the prior written consent of the Provincial Treasury.
- 9.15.5 All information and documentation provided to the successful bidder by the Western Cape Government officials and/or municipalities in relation to and/or during the rendering of the services referred to in these Terms of Reference must be kept confidential by the successful bidder, may not be disclosed by the successful bidder to any third parties, unless prior written permission has been obtained from the Provincial Treasury and subject to any conditions stipulated by the Provincial Treasury.
- 9.15.6 The successful bidder/s hereby indemnifies the Provincial Treasury from and against any claim that any material used by the successful bidder/s, in the course of providing the Services to the Provincial Treasury pursuant to these Terms of Reference, infringes any third party's intellectual property rights.

9.16 Joint Ventures, Consortiums and Trusts

- 9.16.1 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, certificate.
- 9.16.2 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 9.16.3 Bidders must submit concrete proof of the existence of joint ventures and/or consortium arrangements. Provincial Treasury will accept signed agreements as acceptable proof of the existence of a joint venture and/or consortium arrangement.
- 9.16.4 The joint venture and/or consortium agreements must clearly set out the roles and responsibilities of the Lead Partner and the joint venture and/or consortium party. The agreement must also clearly

identify the Lead Partner, with the power of attorney to bind the other party/parties in respect of matters pertaining to the joint venture and/or consortium arrangement

10. CONTRACT CONDITIONS

- 10.1 The list of service providers may be reviewed or updated during the term of the contract as and when required. During the review process, existing suppliers will be assessed for eligibility in accordance with the original Terms of Reference. This assessment will include, but is not limited to, performance reviews against awarded job briefs (where applicable), verification of approved resources to confirm their continued employment with the pre-selected service provider(s), and submission of alternative or replacement resources if necessary.

Regarding the update process, a secondary open procurement may be initiated for all or selected sectors, compliant with applicable Government procurement regulations. This will be followed by a letter of appointment issued by the WCPT and signed by both parties, effective for the remainder of the service period.

- 10.2 The Department may issue Job Briefs from time to time, applicable to specific sectors. Bidders responding to a Job Brief must take the following into consideration:

- **Consultation fees:** Hourly rates must be benchmarked against the DPSA rates.
- **Accommodation:** Rates must comply with National Treasury cost containment measures.
- **Traveling:** Travel costs must align with SARS monthly rates (e.g., specify rate per km and total km applicable for the Job Brief duration).

- 10.3 Fees must include all direct costs related to service execution, such as travel and accommodation.

- 10.4 Any other unforeseen expenses related to the execution of the task will be reimbursed only with prior approval from the Project Manager.

- 10.5 The Provincial Treasury will not be liable for indirect costs related to service execution, such as parking fees or travel expenses between the service provider's place of residence and place of work.

- 10.6 The Provincial Treasury reserves the right to exclude any service providers appointed to the panel from participating in downstream work arising from the initial work conducted through the panel.

PART A INVITATION TO BID

ZERO-TOLERANCE TO FRAUD, THEFT AND CORRUPTION (ANTI-FRAUD, THEFT AND CORRUPTION)

THE WCPT IS COMMITTED TO GOVERN ETHICALLY AND TO COMPLY FULLY WITH ANTI-FRAUD, THEFT AND CORRUPTION LAWS AND TO CONTINUOUSLY CONDUCT ITSELF WITH INTEGRITY AND WITH PROPER REGARD FOR ETHICAL PRACTICES.

THE WCPT HAS A ZERO TOLERANCE APPROACH TO ACTS OF FRAUD, THEFT AND CORRUPTION BY ITS OFFICIALS AND ANY SERVICE PROVIDER CONDUCTING BUSINESS WITH THE WCPT.

THE WCPT EXPECTS ALL ITS OFFICIALS AND ANYONE ACTING ON ITS BEHALF TO COMPLY WITH THESE PRINCIPLES TO ACT IN THE BEST INTEREST OF THE WCPT AND THE PUBLIC AT ALL TIMES.

THE WCPT IS COMMITTED TO PROTECTING PUBLIC REVENUE, EXPENDITURE, ASSETS AND REPUTATION FROM ANY ATTEMPT BY ANY PERSON TO GAIN FINANCIAL OR OTHER BENEFIT IN AN UNLAWFUL, DISHONEST OR UNETHICAL MANNER.

INCIDENTS AND SUSPICIOUS ACTIVITIES WILL BE THOROUGHLY INVESTIGATED AND WHERE CRIMINAL ACTIVITY IS CONFIRMED, RESPONSIBLE PARTIES WILL BE PROSECUTED TO THE FULL EXTENT OF THE LAW.

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/PUBLIC ENTITY)					
BID NUMBER:	WCPT:02/2025/2026	CLOSING DATE:	10 JULY 2025	CLOSING TIME:	11:00
DESCRIPTION	WCPT 02/2025/26: TERMS OF REFERENCE for the APPOINTMENT OF A PANEL OF EXPERTS TO ASSIST BY TECHNICALLY EVALUATING PROJECT PROPOSALS FOR INFRASTRUCTURE FUNDING OPPORTUNITIES FOR A THREE (3) YEAR PERIOD				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX (MARKED "PROVINCIAL TREASURY") SITUATED AT:					
Ground Floor (Foyer) 4 Dorp Street (c/o Dorp and Keerom street) Tower Block, CAPE TOWN 8000					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Mr Neo Rhapale		CONTACT PERSON	Ziyaad Majiet	
TELEPHONE NUMBER	021 483 3945		TELEPHONE NUMBER	021 483 5243	
E-MAIL ADDRESS	Neo.Rhaphale@westerncape.gov.za		E-MAIL ADDRESS	Ziyaad.Majiet@westerncape.gov.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					

Please initial.....

VAT REGISTRATION NUMBER							
SUPPLIER COMPLIANCE STATUS	WCSEB No.		TCS PIN:		AND	CSD 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		
IF YES, WAS THE CERTIFICATE ISSUED BY A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN NATIONAL ACREDITATION SYSTEM (SANAS)	[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No						
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/SWORN AFFIDAVIT (FOR EMEs& QSEs) MUST BE SUBMITTED TOGETHER WITH A COMPLETED 6.1 IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]							
1.1.1.1 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]		1.1.1.2 ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS/SERVICES/ WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]		
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS							
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?					<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE A BRANCH IN THE RSA?					<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?					<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?					<input type="checkbox"/> YES <input type="checkbox"/> NO		
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?					<input type="checkbox"/> YES <input type="checkbox"/> NO		
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.							

PART B
TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:

- 1.1 BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2 **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED – (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.**
- 1.3 THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4 **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (WCBD7).**

2. TAX COMPLIANCE REQUIREMENTS

- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILING THROUGH THE WEBSITE WWW.SARS.GOV.ZA.
- 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 2.5 IN BIDS WHERE CONSORTIA/JOINT VENTURES/SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE AND CSD NUMBER AS MENTIONED IN 2.3 ABOVE.
- 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 WHO ARE 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:

PROVINCIAL GOVERNMENT OF WESTERN CAPE

DECLARATION OF INTERESTS, BIDDERS PAST SCM PRACTICES AND INDEPENDENT BID DETERMINATION

1. To give effect to the requirements of the Western Cape Provincial Treasury Instructions, 2019: Supply Chain Management (Goods and Services), Public Finance Management Act (PFMA) Supply Chain Management (SCM) Instruction No. 3 of 2021/2022 - SBD 4 Declaration of Interest, Section 4(1)(b)(iii) of the Competition Act No. 89 of 1998 as amended together with its associated regulations, the Prevention and Combating of Corrupt Activities Act No 12 of 2004 and regulations pertaining to the tender defaulters register, Paragraph 16A9 of the National Treasury Regulations and/or any other applicable legislation.
2. 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.
3. All prospective bidders intending to do business with the Institution must be registered on the Central Supplier Database (CSD) and the Western Cape Supplier Evidence Bank (WCSEB) if they wish to do business with the Western Cape Government (WCG) via the electronic Procurement Solution (ePS).
4. The status of enterprises and persons listed on the National Treasury's Register for Tender Defaulters will be housed on the ePS. Institutions may not under any circumstances procure from enterprises and persons listed on the Database of Tender Defaulters.
5. The status of suppliers listed on the National Treasury's Database of Restricted Suppliers will be housed on the ePS; however, it remains incumbent on institutions to check the National Treasury Database of Restricted Suppliers before the conclusion of any procurement process. For suppliers listed as restricted, institutions must apply due diligence and risk assessment before deciding to proceed with procurement from any such supplier

6. DEFINITIONS

"bid" means a bidder's response to an institution's invitation to participate in a procurement process which may include a bid, price quotation or proposal;

"Bid rigging (or collusive bidding)" occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and/or services for purchasers who wish to acquire goods and/or services through a bidding process. Bid rigging is, therefore, an agreement between competitors;

"business interest" means:

- (a) a right or entitlement to share in profits, revenue or assets of an entity;
- (b) a real or personal right in property;
- (c) a right to remuneration or any other private gain or benefit, or
- (d) includes any interest contemplated in paragraphs (a), (b) or (c) acquired through an intermediary and any potential interest in terms of any of those paragraphs;

“Consortium or Joint Venture” 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;

“Controlling interest” means, 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.

“Corruption”- General offences of corruption are defined in the Combating of Corrupt Activities Act, 2004 (Act No 12 of 2004) as:

Any person who directly or indirectly -

- (a) accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or
- (b) gives or agrees or offers to give to any other person any gratification, whether for the benefit of that other person or for the benefit of another person., in order to act personally or by influencing another person so to act, in a manner:
 - (i) that amounts to the:
 - (aa) illegal, dishonest, unauthorised, incomplete, or biased; or
 - (bb) misuse or selling of information or material acquired in the course of the exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation:
 - (ii) that amounts to:
 - (aa) the abuse of a position of authority;
 - (bb) a breach of trust; or
 - (cc) the violation of a legal duty or a set of rules;
 - (iii) designed to achieve an unjustified result; or
 - (iv) that amounts to any other unauthorised or improper inducement to do or 45 not to do anything, of the, is guilty of the offence of corruption

“CSD” means the Central Supplier Database maintained by National Treasury;

“employee”, in relation to:

- (a) a department, means a person contemplated in section 8 of the Public Service Act, 1994 but excludes a person appointed in terms of section 12A of that Act; and
- (b) a public entity, means a person employed by the public entity;

“entity” means any:

- (a) association of persons, whether or not incorporated or registered in terms of any law, including a company, corporation, trust, partnership, close corporation, joint venture or consortium; or
- (b) sole proprietorship;

“entity conducting business with the Institution” means an entity that contracts or applies or tenders for the sale, lease or supply of goods or services to the Province;

“Family member” means a person's:

- (a) spouse; or
- (b) child, parent, brother, sister, whether such a relationship results from birth, marriage or adoption or some other legal arrangement (as the case may be);

“intermediary” means a person through whom an interest is acquired and includes a representative or agent or any other person who has been granted authority to act on behalf of another person;

“Institution” means:

a provincial department or provincial public entity listed in Schedule 3C of the Act;

“Provincial Government Western Cape (PGWC)” means:

- (a) the Institution of the Western Cape; and
- (b) a provincial public entity;

“RWOEE” means:

Remunerative Work Outside of the Employee's Employment

“spouse” means a person's:

- a) partner in marriage or civil union according to legislation;
- b) partner in a customary union according to indigenous law; or
- c) partner with whom he or she cohabits and who is publicly acknowledged by the person as his or her life partner or permanent companion;

- 7. Regulation 13(c) of the Public Service Regulations (PSR) 2016, effective 1 February 2017, prohibits any employee from conducting business with an organ of state, or holding a directorship in a public or private company doing business with an organ of state unless the employee is a director (in an official capacity) of a company listed in schedules 2 and 3 of the Public Finance Management Act.
 - (a) Therefore, by 31 January 2017, all employees who are conducting business with an organ of state should either have:
 - (i) resigned as an employee of the government institution;
 - (ii) ceased conducting business with an organ of state; or
 - (iii) resigned as a director/shareholder/owner/member of an entity that conducts business with an organ of state.
- 8. Any legal person, or their family members, may make an offer or offers in terms of this invitation to bid. In view of potential conflict of interest, in the event that the resulting bid, or part thereof, be awarded to family members of persons employed by an organ of state, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/ adjudicating authority where the bidder is employed by the Institution.
- 9. The bid of any bidder may be disregarded if that bidder or any of its directors abused the institution's supply chain management system; committed fraud or any other improper conduct in relation to such system; or failed to perform on any previous contract.
- 10. Section 4(1)(b)(iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging). Collusive bidding is a per se prohibition meaning that it cannot be justified under any grounds.

11. Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorises accounting officers and accounting authorities to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
12. Communication between partners in a joint venture or consortium will not be construed as collusive bidding.
13. 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.

SECTION A DETAILS OF THE ENTITY		
	CSD Registration Number	MAAA
	Name of the Entity	
	Entity registration Number (where applicable)	
	Entity Type	
	Tax Reference Number	

Full details of directors, shareholder, member, partner, trustee, sole proprietor or any persons having a controlling interest with a right or entitlement to share in profits, revenue or assets of the entity should be disclosed in the Table A below.

Table A

FULL NAME	DESIGNATION (Where a director is a shareholder, both should be confirmed)	IDENTITY NUMBER	PERSONAL TAX REFERENCE NO.	PERCENTAGE INTEREST IN THE ENTITY

SECTION B: DECLARATION OF THE BIDDER'S INTEREST			
<p>The supply chain management system of an institution must, irrespective of the procurement process followed, prohibit any award to an employee of the state, who either individually or as a director of a public or private company or a member of a close corporation, seek to conduct business with the WCPT, unless such employee is in an official capacity a director of a company listed in Schedule 2 or 3 of the PFMA as prescribed by the Public Service Regulation 13(c).</p> <p>Furthermore, an employee employed by an organ of state conducting remunerative work outside of the employee's employment should first obtain the necessary approval by the delegated authority (RWOEE), failure to submit proof of such authority, where applicable, may result in disciplinary action.</p>			
B1.	Are any persons listed in Table A identified on the CSD as employees of an organ of state? (If yes, refer to Public Service Circular EIM 1/2016 to exercise the listed actions)	NO	YES
B2.	Are any employees of the entity also employees of an organ of state? (If yes complete Table B and attach their approved "RWOEE")	NO	YES

Please initial.....

B3.	Are any family members of the persons listed in Table A employees of an organ of state? <i>(If yes complete Table B)</i>	NO	YES
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TABLE B

Details of persons (family members) connected to or employees of an organ of state should be disclosed in Table B below.

FULL NAME OF EMPLOYEE	IDENTITY NUMBER	DEPARTMENT/ ENTITY OF EMPLOYMENT	DESIGNATION/ RELATIONSHIP TO BIDDER**	INSTITUTION EMPLOYEE NO./ PERSAL NO. (Indicate if not known)

SECTION C: PERFORMANCE MANAGEMENT AND BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

To enable the prospective bidder to provide evidence of past and current performance.

C1.	Did the entity conduct business with an organ of state in the last twelve months? (If yes complete Table C)	NO	YES
------------	--	----	-----

C2. TABLE C

Complete the below table to the maximum of the last five contracts.

NAME OF CONTRACTOR	PROVINCIAL DEPARTMENT OR PROVINCIAL ENTITY	TYPE OF SERVICES OR COMMODITY	CONTRACT/ ORDER NUMBER	PERIOD OF CONTRACT	VALUE OF CONTRACT
C3. Is the entity or its principals listed on the National Database as companies or persons prohibited from doing business with the public sector?					NO YES
C4. Is the entity or its principals listed on the National Treasury Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No. 12 of 2004)?					NO YES
(To access this Register enter the National Treasury's website, www.treasury.gov.za , click on the icon "Register for Tender Defaulters" or submit your written request for a hard copy of the Register to facsimile number (012) 326 5445.)					
C5. If yes to C3 or C4, were you informed in writing about the listing on the database of restricted suppliers or Register for Tender Defaulters by National Treasury?				NO	YES N/A
C6. Was the entity or persons listed in Table A convicted for fraud or corruption during the past five years in a court of law (including a court outside the Republic of South Africa)?					NO YES
C7. Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?					NO YES

SECTION D: DULY AUTHORISED REPRESENTATIVE TO DEPOSE TO AFFIDAVIT

This form must be signed by a duly authorised representative of the entity in the presence of a commissioner of oaths.

- I, hereby swear/affirm;
- i. that the information disclosed above is true and accurate;
 - ii. that I have read understand the content of the document;
 - iii. that I have arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor.
 - iv. that the entity undertakes to independently arrive at any offer at any time to the Institution without any consultation, communication, agreement or arrangement with any competitor. In addition, that there will be no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specification, 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;
 - v. that the entity or its representative are aware of and undertakes not to disclose the terms of any bid, formal or informal, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract; and
 - vi. that there have been no consultations, communications, agreements or arrangements made with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and that my entity was not involved in the drafting of the specifications or terms of reference for this bid.

.....

DULY AUTHORISED REPRESENTATIVE'S SIGNATURE

I certify that before administering the oath/affirmation I asked the deponent the following questions and wrote down his/her answers in his/her presence:

- 1.1 Do you know and understand the contents of the declaration? ANSWER:
- 1.2 Do you have any objection to taking the prescribed oath? ANSWER:
- 1.3 Do you consider the prescribed oath to be binding on your conscience? ANSWER:.....
- 1.4 Do you want to make an affirmation? ANSWER:
2. I certify that the deponent has acknowledged that he/she knows and understands the contents of this declaration, which was sworn to/affirmed and the deponent's signature/thumbprint/mark was place thereon in my presence.

.....
SIGNATURE FULL NAMES Commissioner of Oaths

Designation (rank) ex officio: Republic of South Africa

Date:..... Place

Business Address:

.....

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022 AND IN TERMS OF THE WESTERN CAPE GOVERNMENTS INTERIM STRATEGY AS IT RELATES TO PREFERENCE POINTS

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

NB: BEFORE COMPLETING THIS FORM, BIDDERS (TENDERERS) MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER, PREFERENTIAL PROCUREMENT REGULATIONS, 2022 AND THE BROAD BASED BLACK ECONOMIC EMPOWERMENT ACT AND THE CODES OF GOOD PRACTICE

1. DEFINITIONS

- 1.1 **"acceptable tender"** means any tender which, in all respects, complies with the specifications and conditions of tender as set out in the tender document.
- 1.2 **"affidavit"** is a type of verified statement or showing, or in other words, it contains a verification, meaning it is under oath or penalty of perjury, and this serves as evidence to its veracity and is required for court proceedings.
- 1.3 **"all applicable taxes"** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- 1.4 **"B-BBEE"** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- 1.5 **"B-BBEE status level of contributor"** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- 1.6 **"bid"** means a written offer on the official bid documents or invitation of price quotations and **"tender"** is the act of bidding/tendering;
- 1.7 **"Code of Good Practice"** means the generic codes or the sector codes as the case may be;
- 1.8 **"consortium or joint venture"** 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;
- 1.9 **"contract"** means the agreement that results from the acceptance of a bid by an organ of state;
- 1.10 **"EME"** is an Exempted Micro Enterprise with an annual total revenue of R10 million or less.
- 1.11 **"Firm price"** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- 1.12 **"Large Enterprise"** is any enterprise with an annual total revenue above R50 million;
- 1.13 **"non-firm prices"** means all prices other than "firm" prices;

- 1.14 **"person"** includes a juristic person;
- 1.15 **"price"** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- 1.16 **"proof of B-BBEE status level contributor"** means:
- (a) The B-BBEE status level certificate issued by an authorised body or person;
 - (b) A sworn affidavit as prescribed in terms of the B-BBEE Codes of Good Practice; or
 - (c) Any other requirement prescribed in terms of the Broad- Based Black Economic Empowerment Act.
- 1.17 **QSE** is a Qualifying Small Enterprise with an annual total revenue between R10 million and R50 million;
- 1.18 **"rand value"** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- 1.19 **"sub-contract"** means the primary contractor's assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
- 1.20 **"tender"** means a written offer in the form determined by an organ of state in response to an invitation to provide or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- 1.21 **"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;
- 1.22 **"the Act"** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- 1.23 **"the Regulations"** means the Preferential Procurement Regulations, 2022;
- 1.24 **"total revenue"** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette on 11 October 2013*;
- 1.25 **"trust"** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- 1.26 **"trustee"** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

2. GENERAL CONDITIONS

- 2.1 The following preference point systems are applicable to all bids:
- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
 - the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

2.2 **Preference point system for this bid:**

(a) The value of this bid is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable;

2.3 Preference points for this bid shall be awarded for:

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

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

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

2.5 Failure on the part of a bidder to fill in, sign this form and submit in the circumstances prescribed in the Codes of Good Practice either a B-BBEE Verification Certificate issued by a Verification Agency accredited by the South African Accreditation System (SANAS) or an affidavit confirming annual total revenue and level of black ownership together with the bid or an affidavit issued by Companies Intellectual Property Commission, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

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

3. ADJUDICATION USING A POINT SYSTEM

3.1 Subject to Section 2 (1) (f) of the Preferential Procurement Policy Framework Act, 2000, the **bidder obtaining the highest number of total points** will be awarded the contract.

3.2 A tenderer must submit proof of its B-BBEE status level of contributor in order to claim points for B-BBEE.

3.3 A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE will not be disqualified but will only score:

- (a) points out of 80 for price; and
- (b) 0 points out of 20 for B-BBEE

3.4 Points scored must be rounded off to the nearest 2 decimal places.

3.5 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.

3.6 As per section 2(1)(f) of the Preferential Procurement Policy Framework Act, 2000, the contract may be awarded to a bidder other than the one scoring the highest number of total points based on objective criteria in addition to those contemplated in paragraph (d) and (e) of the Act that justifies the award to another tenderer provided that it has been stipulated upfront in the tendering conditions.

3.7 Should two or more bids be equal in all respects; the award shall be decided by the drawing of lots.

4. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

4.1 POINTS AWARDED FOR PRICE

4.1.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEM

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

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

Where

P_s = Points scored for price of bid under consideration

P_t = Price of tender under consideration

P_{\min} = Price of lowest acceptable tender

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

5.1 POINTS AWARDED FOR PRICE

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

80/20 or 90/10

$$\begin{array}{ccc} P_s = 80 \left(1 + \frac{P_t - P_{\max}}{P_{\max}} \right) & & P_s = 90 \left(1 + \frac{P_t - P_{\max}}{P_{\max}} \right) \end{array}$$

Where

P_s = Points scored for price of tender under consideration

P_t = Price of tender under consideration

P_{\max} = Price of highest acceptable tender

6. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTION

6.1 In terms of WCG interim strategy, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
Non-compliant contributor	0	0

- 6.2 An **EME** must submit a valid, originally certified affidavit confirming annual turnover and level of black ownership or an affidavit issued by Companies Intellectual Property Commission.
- 6.3 A **QSE that is less than 51 per cent (50 per cent or less) black owned** must be verified in terms of the QSE scorecard issued via Government Gazette and submit a valid, original or a legible certified copy of a B-BBEE Verification Certificate issued by SANAS.
- 6.4 A **QSE that is at least 51 per cent black owned (51 per cent or higher)** must submit a valid, originally certified affidavit confirming turnover and level of black ownership as well as declare its empowering status or an affidavit issued by Companies Intellectual Property Commission.
- 6.5 A **large enterprise** must submit a valid, original or originally certified copy of a B-BBEE Verification Certificate issued by a verification agency accredited by SANAS.
- 6.6 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 6.7 A trust, consortium or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE status level verification certificate for every separate tender.
- 6.8 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialised scorecard contained in the B-BBEE Codes of Good Practice.

7. BID DECLARATION

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

8. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPH 5

- 8.1 B-BBEE Status Level of Contribution..... = (**maximum of 20 points**)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or an affidavit confirming annual total revenue and level of black ownership in terms of the relevant sector code applicable to the tender.

9. SUB-CONTRACTING

- 9.1 Will any portion of the contract be sub-contracted? **YES/NO** (delete which is not applicable)

- 9.1.1 If yes, indicate:

- (i) what percentage of the contract will be subcontracted?%
- (ii) the name of the sub-contractor?
- (iii) the B-BBEE status level of the sub-contractor?
- (iv) whether the sub-contractor is an EME or QSE? **YES/NO** (delete which is not applicable)

- 9.1.2 Sub-contracting relates to a **particular** contract and if sub-contracting is applicable, the bidder to state in their response to a particular RFQ that a portion of that contract will be sub-contracted.

10. DECLARATION WITH REGARD TO COMPANY/FIRM

10.1 Name of company/entity:

10.2 VAT registration number:

10.3 Company Registration number:

10.4 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

[SELECT APPLICABLE ONE]

10.5 ***I/we, the undersigned, who is/are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBEE status level of contribution indicated in paragraph 7 above, qualifies the company/firm for the preference(s) shown and I/we acknowledge that:***

(a) The Western Cape Government reserves the right to audit the B-BBEE status claim submitted by the bidder.

(b) As set out in Section 13O of the B-BBEE Act as amended, any misrepresentation constitutes a criminal offence. A person commits an offence if that person knowingly:

(i) misrepresents or attempts to misrepresent the B-BBEE status of an enterprise;

(ii) provides false information or misrepresents information to a B-BBEE Verification Professional in order to secure a particular B-BBEE status or any benefit associated with compliance to the B-BBEE Act;

(iii) provides false information or misrepresents information relevant to assessing the B-BBEE status of an enterprise to any organ of state or public entity; or

(iv) engages in a fronting practice.

(c) If a B-BBEE verification professional or any procurement officer or other official of an organ of state or public entity becomes aware of the commission of, or any attempt to commit any offence referred to in paragraph 9.1 (a) above will be reported to an appropriate law enforcement agency for investigation.

- (d) Any person convicted of an offence by a court is liable in the case of contravention of 9.4 (b) to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment or, if the convicted person is not a natural person to a fine not exceeding 10 per cent of its annual turnover.
- (e) The purchaser may, if it becomes aware that a bidder may have obtained its B-BBEE status level of contribution on a fraudulent basis, investigate the matter. Should the investigation warrant a restriction be imposed, this will be referred to the National Treasury for investigation, processing and imposing the restriction on the National Treasury's List of Restricted Suppliers. The bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, may 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.
- (f) The purchaser may, in addition to any other remedy it may have:
- (i) disqualify the person from the bidding process;
 - (ii) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (iii) 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; and
 - (iv) forward the matter for criminal prosecution.
- (g) The information furnished is true and correct.
- (h) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 2 of this form.

SIGNATURE(S) OF THE BIDDER(S):

DATE:

ADDRESS:

.....

WITNESSES:

1.

2.

GENERAL CONDITIONS OF CONTRACT

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.

GENERAL CONDITIONS OF THE 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 anything 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 subsidised 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 recognised new product results that are 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 markets its goods on their 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 organisation purchasing the goods.
- 1.22 **"Republic"** means the Republic of South Africa.
- 1.23 **"SCC"** means the Special Conditions of Contract.
- 1.24 **"Services"** means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
- 1.25 **"Written"** or **"in writing"** means handwritten in ink or any form of electronic or mechanical writing.

2. Application

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

3. General

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

4. Standards

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

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 organisation 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 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 delivery 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 the 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 the SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without cost to the purchaser.
- 15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in the 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 the SCC.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of other obligations stipulated in the contract.
- 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 the 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 authorised in the 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 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 contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

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

22. Penalties

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

25. Force Majeure

25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.

25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

26. Termination for solvency

- 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 wilful 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 the 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

- 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.

34. Prohibition of restrictive practices

- 34.1 In terms of section 4(1)(b)(iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder(s) is/are or a contractor(s) was/were involved in collusive bidding (or bid rigging).
- 34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has/have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.
- 34.3 If a bidder(s) or contractor(s), has/have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and/or terminate the contract in whole or part, and/or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and/or claim damages from the bidder(s) or contractor(s) concerned.

SECTION B TERMS OF REFERENCE

BID REFERENCE NUMBER - WCPT 02/2025/26: TERMS OF REFERENCE FOR THE APPOINTMENT OF A PANEL OF EXPERTS TO ASSIST BY TECHNICALLY EVALUATING PROJECT PROPOSALS FOR INFRASTRUCTURE FUNDING OPPORTUNITIES FOR A THREE (3) YEAR PERIOD

1. PURPOSE

- 1.1 To establish a panel of qualified experts to technically evaluate infrastructure funding proposals in order to build a credible pipeline of investment ready, bankable infrastructure projects, for a three (3) year period.

2. BACKGROUND

- 2.2 Infrastructure development is critical to delivering growth, reducing poverty and creating jobs. Whereas increased investment in new social infrastructure (schools, hospitals and clinics) is required to improve socio-economic outcomes.

Technical evaluations will be required on various sectors, inclusive of but not limited to: Education, Health, Energy, Human Settlements, Municipal Infrastructure and Roads

- 2.3 Existing infrastructure investment funding supplements to the fiscus includes the Budget Facility for Infrastructure (BFI).

"The **BFI** creates a process to support the national priority projects by establishing specialised structures and criteria for committing fiscal resources to public infrastructure spending. The aim is to increase the rigour of technical assessment and budgeting for capital, operational and maintenance costs for large infrastructure projects". The BFI allows for budget submissions to be made to National Treasury. The Provincial Treasury will require the panel of experts to assist in the technical evaluation of proposals prior to making submissions to National Treasury, to ensure that it meets the requirements of the BFI Guidelines, which is readily available.

3. GOALS AND OBJECTIVES

- 3.1 The panel of experts will supplement the existing capacity within the Provincial Treasury, Western Cape sector Departments and Municipalities, with the requisite skills required to review, assess and input into potential supplementary infrastructure funding applications.
- 3.2 The established panel of experts to perform an evaluation of proposals made by Departments and Municipalities for supplementary funding streams, both existing and outside of the existing fiscal envelope in key sectors as indicated in 4.3 below, for infrastructure projects and programmes.

4. SCOPE OF WORK

- 4.1 The Panel's role will support and enhance the current capacity within the Provincial Treasury to review departmental, municipal and entity infrastructure investment opportunities relating to their respective infrastructure project pipelines. This will be achieved through training, skills transfer and regular engagements with the Provincial Treasury.
- 4.2 As and when funding opportunities are presented to provincial departments, municipalities and entities, the services of the respective experts could be accessed to strengthen the quality of infrastructure funding related proposals.

- 4.3 To provide an evaluation of infrastructure project/programme funding proposals, as and when required, in various sectors, namely; education, health, energy, human settlements, roads, and Municipal Infrastructure (inclusive of water, sanitation and electricity).
- 4.4 The independent experts will perform a technical review of infrastructure funding proposals; which may include and is not limited to the assessment of:
- a) Pre-Feasibility/Inception reports;
 - b) Feasibility Study/Concept Reports;
 - c) Budget statement analysis;
 - d) Socio-economic analysis;
 - e) Risk and sensitivity analysis;
 - f) Procurement plans; and
 - g) Institutional and operational readiness for project implementation.
- 4.5 The independent expert may be requested by the Provincial Treasury to perform a technical review and evaluation of infrastructure funding proposals. This may include direct engagement with the relevant department, municipality or entity (the applicant) during the process of compiling their specific funding proposals/applications.

Subsequent to the independent expert performing this technical review and evaluation, the independent expert must engage with the Provincial Treasury to present specific recommendations for improvement and/or any matters for consideration prior to communicating such to the applicant.

5. KEY OUTPUTS/DELIVERABLES

- 5.1 An analysis of the project proposals must be provided in a draft report by the independent expert.
- 5.2 The Provincial Treasury will schedule meetings to be attended by the independent experts where they will be required to discuss or highlight findings of the draft report.
- 5.3 Thereafter a final report by the independent expert must be submitted and presented to The Provincial Treasury
- 5.4 A presentation on the key findings, recommendations, and practical ways for the departments, municipalities and entities to strengthen the content of their applications is required. This presentation is to be prepared and delivered by the independent expert to the relevant department/s, municipalities, entities and the Department of Provincial Treasury. Should circumstances require, additional presentations by the independent expert may be required to additional stakeholders.

6 REQUIRED EXPERTISE: QUALIFICATIONS AND EXPERIENCE

6.1 Minimum Academic Qualification:

- 6.1.1 NQF Level 7 qualification:
- Built Environment;
 - Finance; and
 - Economics (specialisation in the specific sector).

6.2 Professional Registration

- 6.2.1 For bidders within the Built Environment, it is mandatory for them to be registered within their respective Statutory Council.

6.3 Experience Requirements

- 6.3.1 Experts must possess at least seven (7) years of professional experience in their areas of specialisation (i.e., sectors) and be able to illustrate the following competencies:
- Sectoral Infrastructure experience related to planning and Project Management of infrastructure projects governed by the Infrastructure Delivery Management System (IDMS) and Framework for Infrastructure Delivery and Procurement Management (FIDPM);
 - Appraisal and evaluation of public sector infrastructure projects; and
 - Cost Benefit Analysis and Cost Effectiveness Analysis and Financial Modelling (Inclusive of the ability to perform technical due diligence analysis).
- 6.3.2 To note, the experience does not have to rest with a single person in the organisation, however, each competency requires a minimum of 7 years' experience and must reside with a person in an organisation

SECTION C: CONDITIONS OF THE BID

1. EVALUATION PROCESS

1.1 The bid will be evaluated in accordance with the following table as outlined below:

Table C Phases

Phase 1 (Part A)	Phase 1 (Part B)	Phase 2 (Part A)	Phase 2 (Part B)
Compliance to SCM Conditions and Requirements;	Compliance to minimum Bid/ToR Conditions and Requirements;	Evaluation of Functionality: Evaluation against the functionality criteria;	Evaluation: Presentation

Note: Price and BBBEE points will not be considered at this stage of the evaluation process. Bidders are only to submit proposals for evaluation purposes.

1.2 PHASE 1 (PART A): COMPLIANCE TO SUPPLY CHAIN MANAGEMENT CONDITIONS AND REQUIREMENTS (BID DOCUMENTS)

1.2.1 During this phase, bids are evaluated for compliance to the compulsory requirements of the bid, inclusive of all relevant bid documents being duly completed, signed and submitted as part of the bid and that all supporting documentation has been provided in line with the conditions of the bid. Failure to comply with these requirements may result in non-compliance of the bid and such a bidder will not proceed to Phase 1 (PART B) of the evaluation.

1.2.2 During this phase, bid documents will be reviewed to determine compliance with SCM returnable documents. Bids that do not satisfy the compliance criteria as per Table C1 below may not be evaluated further.

Table C1 Compliance to SCM conditions and requirements

NO.	Schedules	Description	Mandatory	Returnable documents
(a)	WCBD 1	Invitation to Bid (To be accompanied by proof of authority e.g. company resolution)	√	√
(b)	WCBD 4	Declaration of Interest, Declaration of Bidder's Past Supply Chain Management Practices and Certificate of Independent Bid Determination.	√	√
(c)	WCBD 6.1	Preference points claim form; (to be accompanied by a valid BBBEE certificate or consolidated BBBEE for joint ventures certificate/affidavit)		√
(d)	CSD	Bidders must be registered on the Central Supplier Database (CSD) at the time of award – Submission of Proof of CSD Registration or latest Report.		√
(e)	GCC and ToR	Bidders must accept all bid conditions by initialling every page of the GCC and Terms of Reference (ToR), that they have read and understood the terms and conditions.	√	√

Sector Specific Bid Requirements

- 1.2.3 The bidder is required to clearly indicate with an “X” which of the sector(s) they are bidding for and can provide the specific services within the agreed timeline. **It is requested that bidders complete Table C2 below.**
- 1.2.4 Completion of the below table will ensure that bidders are evaluated according to the correct sector they are bidding for.
- 1.2.5 Where a bidder is bidding for more than one sector, **a single bid must be submitted and bidders must clearly indicate the sectors** they are bidding for.

Table C2 Applicable Sectors

Range of services will be in the following Sectors	Service Providers must indicate the Sector they are bidding for (Mark the applicable Sector with an X).	
	YES	NO
Education		
Health		
Energy		
Human Settlements		
Municipal Infrastructure		
Roads		

1.3 PHASE 1 (PART B): COMPLIANCE TO MINIMUM BID/TOR CONDITIONS AND REQUIREMENTS

- 1.3.1 During this stage, compliance will be assessed against the minimum bid conditions and bid submission requirements as indicated Table C2 of Phase 2 below, of this document. **Failure to meet the minimum bid requirements listed in Table C2 below will result in the disqualification of a bid.**

NB: Should a bidder not meet all the minimum requirements as stipulated under ‘demonstrated experience’, such bidder will not proceed to the next evaluation phase.

- 1.3.2 Bids will be subjected to the responsiveness criteria to determine which bid responses are compliant or non-compliant with the bid specifications and requirements issued by the Department as part of the bid process.
- 1.3.3 The minimum bid conditions are reflected in section; paragraph 6 “required **expertise: qualifications and experience above**. In order to assess compliance, the following submission requirements should be met as outlined in Table C2 below of Phase 1 (Part B):

Table C2 of Phase 1 (Part B): Minimum Bid Conditions & Submission Requirements

Note: Please indicate with an "X" if the bidder complies with the compulsory requirements of the bid. Non-compliance with the stipulated requirement will lead to the disqualification of the bid.

Minimum Bid Conditions & Submission Requirements	Comply	Do not Comply
Bidders must provide:		
a) Qualifications <ul style="list-style-type: none"> Minimum qualification of the expert should be an NQF level 7 qualification in the field related to the identified Sectors, (Refer to section; paragraph 6 "required expertise: qualifications and experience above"). Note: International qualifications must be accompanied with SAQA accreditation. (period of 3 months grace to provide SAQA Accreditation)		
<ul style="list-style-type: none"> Certified copies of qualification(s), (certification not older than three (3) months). 		
<ul style="list-style-type: none"> Certified copies of proof of professional registration where applicable, (certification not older than three (3) months). 		
b) Curriculum Vitae (CV): Individual resource experience <ul style="list-style-type: none"> CV of experts who will be used in rendering the service(s) as required (Refer to section; paragraph 6 "required expertise: qualifications and experience above"). 		
<ul style="list-style-type: none"> Experts must have a minimum of seven (7) years' experience as outlined in (Refer to section; paragraph 6 "required expertise: qualifications and experience above"). 		
c) Service Provider Portfolio of Work <ul style="list-style-type: none"> Bidders must provide portfolio of work which must substantively demonstrate that they are able to meet the evaluation criteria, which must be demonstrated by means of the following minimum documentation: <ol style="list-style-type: none"> List at least one (1) or more similar projects undertaken. I.e. Where the bidder was previously required to evaluate and technically review infrastructure project/programme funding proposals. 		
Substantiate competence, knowledge and experience of project listed above. This must include the following: <ul style="list-style-type: none"> Scope of the project Value of the project and year in which completed; and Key outcomes of the project (objectives achieved). NB: similar projects refer to previous projects or undertakings that a bidder has completed within the last 10 years (i.e., from 2015 to current), and these projects are relevant and align with the sector for which they are bidding. 		
d) Reference Letters <ul style="list-style-type: none"> Reference letters on the letterhead of the organ of State/public/private sector of the above-mentioned project or projects, contactable work references where similar work was undertaken. 		
e) High Level Proposal <p>NB: The proposal should clearly outline the understanding and methodology that will be used in undertaking the required scope of work and align with the competencies outlined in Section B, 7.2:</p> <ul style="list-style-type: none"> Planning and Project Management; Appraisal, evaluation and financing of public infrastructure; and Cost benefit and cost effectiveness analysis and financial modelling. 		

1.4 PHASE 2: EVALUATION OF FUNCTIONALITY (FUNCTIONALITY CRITERIA)

- 1.4.1 Functionality in terms of this bid means the ability of a bidder to provide services in accordance with the scope of the work as set out in the bid documents. Functionality takes into account quality, reliability, viability and durability of a service and the bidder's technical and personnel capacity and ability to execute a contract. Phase 2 evaluation process will constitute a functional evaluation including presentation. The following functionality criteria outline in Table C3 below will be applicable when evaluating this bid.

The total score for Phase 2 is 100 per cent. Bidders must obtain a minimum score of 70 per cent for Phase 2A (Functionality) to proceed to Phase 2B (Presentation). Bidders must obtain a minimum score of 50 per cent for Phase 2B to be pre-selected to the panel of experts.

Phase 2 Scoring Overview (Total: 100 per cent)

Phase 2A (Functionality): 80 per cent

Phase 2B (Presentation): 20 per cent

Then:

- A bidder must score at least 70 per cent in Phase 2A (i.e., 56 out of 80 points) to move on.
- A bidder must score at least 50 per cent in Phase 2B (i.e., 6 out of 12) to be considered for the panel of experts.

- 1.4.3 The Bid Evaluation Committee members will individually evaluate responses received, and the scores will be multiplied with the weighting to obtain marks scored for each criterion.

Table C3 Evaluation Criteria FUNCTIONALITY

FUNCTIONALITY WEIGHTED SCORE = 80%				
EVALUATION CRITERIA		WEIGHT	SCORING CRITERIA	SCORE
1.1	Relevant qualifications in Built Environment, or Finance, or Economics.	10	NQF Level 8 or higher qualification	4
			NQF Level 7 qualification	3
1.2	At least 7 years' experience in planning and project management of infrastructure projects.	15	8 years or more	4
			7 years	3
1.3	At least 7 years' experience in the appraisal and evaluation of infrastructure projects.	15	8 years or more	4
			7 years	3
1.4	At least 7 years' experience in Cost-Benefit Analysis and Cost Effectiveness Analysis and Financial Modelling.	15	8 years or more	4
			7 years	3
1.5	Portfolio of related work completed which substantively demonstrates competence, knowledge and experience to undertake the work. Specifically, <ul style="list-style-type: none"> • a summarised brief of similar works undertaken and completed over the 	10	2 or more projects	4

FUNCTIONALITY WEIGHTED SCORE = 80%				
EVALUATION CRITERIA		WEIGHT	SCORING CRITERIA	SCORE
	past ten (10) years in the relevant sector: <ul style="list-style-type: none"> Scope of the project; Value of the project and year in which completed; and Key outcomes of the project (objectives achieved). 		1 project	3
1.6	Reference Letters <ul style="list-style-type: none"> a reference letter on the letterhead of the organ of State/public/private sector of the above-mentioned project or projects, contactable work references where similar work was undertaken. 	5	2 or more reference letters	4
			1 reference letter	3
1.7	High level proposal The proposal should clearly outline the understanding and methodology that will be used in undertaking the required scope of work.	10	Proposal demonstrates understanding of complexity of project scope, proposes coherent methodology, project outline.	4
			Proposal has just met the requirements but has one or more major weaknesses.	3
			Proposal has serious inconsistencies, does not show understanding of complexity of project scope.	1
	Threshold (70%)	56		

1.5 Phase 2(B) - (Presentation)

- 1.5.1 Bidders whose bids score 70 per cent and above in Phase 2A of the evaluation criteria will be invited and required to do an oral presentation to the Bid Evaluation Committee. Presentations must substantiate the detailed approach provided in the proposal. In addition to oral responses to questions, the Bid Evaluation Committee may also require a bidder to submit written responses to questions regarding its bid within a period prescribed by the Committee.
- 1.5.2 Bidders are required to achieve a minimum of 50 per cent for (Phase 2(B)): **(Presentation)**.
- 1.5.3 During this phase, bidders will be evaluated on the following criteria as indicated in the Table below, namely the Evaluation criteria for presentation (Phase 2B):
- Ability to communicate in a clear, persuasive, tactful, impactful and inspiring manner (4);
 - Clear understanding of project objectives and deliverables (4); and
 - Adequate project methodology and clear approach (4).

1.5.4 Phase 2(B) - presentation will be scored as follows:

PRESENTATION WEIGHTED SCORE = 20%		
EVALUATION CRITERIA	SCORING CRITERIA	
Ability to communicate in a clear, persuasive, tactful, impactful and inspiring manner	Bidders are expected to demonstrate the ability to communicate in a clear, persuasive, tactful, impactful, and inspiring manner. Your presentation will be evaluated on the following aspects: arguments must be rigorously developed, logical, and easy to follow. The content should be clear, lively, imaginative, and well-timed. You are encouraged to make effective use of visuals, including the thoughtful design of slides, to enhance the overall delivery. Presentations must be well edited, professionally formatted, and free of errors. The evaluation will specifically focus on the structure of your presentation, the method of delivery, and your delivery style.	Excellent = 4
		Good = 3
		Basic = 2
		Poor = 1
Clear understanding of project objectives and deliverables	Bidders are expected to demonstrate a clear understanding of the project objectives and deliverables and provide evidence that critically examines the project scope. Your submission should reflect independent thought and a high level of critical analysis. You are encouraged to clearly articulate how you understand the intent of the project, identify key deliverables, and engage meaningfully with the scope by offering insightful observations or considerations that demonstrate depth of understanding.	Excellent = 4
		Good = 3
		Basic = 2
		Poor = 1
Adequate project methodology and clear approach	Bidders are required to provide skills transfer to the relevant Treasury officials, specifically in relation to their methods and approach, while demonstrating an awareness of the rapidly evolving fiscal environment. You must show the ability to effectively engage with an audience of senior Treasury officials, ensuring that complex concepts are communicated clearly and meaningfully. The presenter should be capable of drawing participants' attention to nuanced or often-overlooked aspects of the subject matter, thereby enriching the overall learning experience.	Excellent = 4
		Good = 3
		Basic = 2
		Poor = 1
Threshold (50%)	6	

SECTION D POST-AWARD REQUIREMENTS

1. MULTI-SOURCING MODEL FOR INVITING QUOTATIONS

- 1.1 The following process will be followed when utilising the Infrastructure Panel of Experts:
- a) The Provincial Treasury will draw from the panel as and when required, based on a specific Scope of Work designed to assist departments and municipalities. Each task order or brief will be issued to service providers on an ad-hoc basis. Selected service providers will be required to respond to the brief and submit quotations.
 - b) Once service providers have been pre-selected onto the panel, they will be required to register on the electronic Procurement System (e-PS). This platform will be used for all job briefs and call-outs issued by the Department. All service providers must respond via this platform to ensure governance and transparency in line with the objectives of the Framework.
 - c) The Western Cape Provincial Treasury (WCPT) will first identify a need and secure the necessary financial resources before issuing a brief. Being placed on the panel does not guarantee the allocation of work; service providers will be sourced on an ad-hoc basis as and when the need arises.
 - d) A Request for Quotation (RFQ) or job brief for an identified need will be issued to all service providers pre-selected under the relevant service or area of expertise, in accordance with the specified sectors of work.
 - e) Service providers will be given a minimum of seven (7) calendar days from the date of publication of the job brief to respond.
 - f) Proposals received will be evaluated by a Bid Evaluation Committee (BEC) according to the criteria outlined in the job brief. This process may include interviews with shortlisted bidders.
 - g) The BEC will evaluate bids in accordance with the Preferential Procurement Regulations, 2022, using the 80/20 preference point system (considering price and B-BBEE points).
 - h) Bids must be submitted on a fixed-price basis and will be benchmarked against the DPSA rates to determine reasonableness and value for money.
 - i) A preferred service provider will be selected based on functionality, price, and preferential points.
 - j) The award decision will be communicated to all bidders within the specified sector and will be published in the same manner in which the opportunity was originally advertised.
 - k) If the selected service provider is unable to commence the project within the stipulated timeframe, the next eligible service provider may be considered.
 - l) If no suitable service provider can be identified from the existing panel in a specific sector, the WCPT reserves the right to access the broader market through a competitive process.
 - m) The WCPT reserves the right to negotiate hourly charge-out rates submitted by bidders.
 - n) The panel of experts will remain valid for a period of 36 months, after which it will automatically terminate.

- o) The WCPT may accept or reject any bid offer, and reserves the right to cancel the bidding process and reject all bids at any point prior to contract award. This may occur for reasons including, but not limited to:
 - (i) Changed circumstances resulting in the services no longer being required;
 - (ii) Unavailability of funds to cover the anticipated expenditure;
 - (iii) No acceptable tenders received;
 - (iv) A material irregularity in the tender process.
- p) The WCPT shall not be liable to any bidder for cancellation or rejection but will provide written reasons for such decisions upon written request.
- q) The list of service providers may be reviewed or updated during the term of the contract as needed. During this review, existing suppliers will be reassessed for eligibility in line with the original Terms of Reference. This may include performance reviews based on awarded job briefs, verification of the continued employment of approved resources, and submission of alternative or replacement resources.

As part of the update process, a secondary open procurement process may be conducted for all or selected sectors, in compliance with applicable government procurement prescripts. Successful bidders will be issued a letter of appointment by the WCPT, effective for the remainder of the service period, and co-signed by both parties.

2. CODE OF PROFESSIONAL ETHICS

- 2.1 The pre-approved panel of experts are expected to apply and uphold the following guiding principles, including the code of conduct as prescribed in Chapter 2 of the Public Service Regulation, 2016.
 - a) *Professionalism and Diligence*: They shall, always demonstrate a commitment to professionalism and diligence in the performance of their duties.
 - b) *Legal and Ethical*: They shall not engage in any illegal or unethical conduct, or any activity which would constitute a conflict of interest.
 - c) *Integrity*: They shall, always, exhibit the highest level of integrity in the performance of all professional assignments and will accept only assignments for which there is reasonable expectation that the assignment will be completed with professional competence.
 - d) *Objectivity*: They will comply with lawful orders of the courts and will testify to matters truthfully and without bias or prejudice.
- 2.2 If a service provider pre-approved on the panel has been found guilty in any of the conduct as stipulated under paragraph 2.1, above, the Provincial Treasury reserves the right to either cancel the contract in its totality or the individual contract with the service provider.

3. REPORTING, CONTRACT MANAGEMENT MONITORING & EVALUATION

- 3.1 An inception meeting will be scheduled between the project manager(s) and the appointed service provider for onboarding purposes related to a specific job brief. The meeting will be recorded and transcribed. Minutes of the meeting must be compiled by the service provider and made available to the contract manager upon request.
- 3.2 The final work schedule - aligned with the scope of work, deliverables, and timelines—will be agreed upon during the inception meeting. This schedule must include a detailed project plan outlining clearly defined deliverables, quality standards, target dates, and other relevant milestones.
- 3.3 Failure to meet agreed-upon targets and performance standards may result in the suspension of the service provider from the Preferred Supplier List. Specific performance criteria will be established per job brief to define the minimum acceptable standards for the required services.