

BID DOCUMENT: APPOINTMENT OF A SERVICE PROVIDER FOR THE SELECTION AND IMPLEMENTATION OF A CLOUD-BASED ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM FOR THE ECRDA

REFERENCE NO: SCMU 03 - 2025 2024

ECRDA
2nd Floor
Phase 3
3-33 Philip Frame Road
Waverley Office Park
Chiselhurst
EAST LONDON

Name of Tenderer/Bidder:

Total Bid Price: _____

| | |
|------------------------------------|---------------------|
| Bid Issue Date | 30 May 2025 |
| Closing Date | 23 June 2025 |
| Closing Time | 11H00 |
| Compulsory Briefing Session | Yes |

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DEFINITIONS

In this bid, unless the context indicates otherwise, any word or expression to which the meaning has been assigned must bear the meaning so assigned-

- a) **"Act"** means the Preferential Procurement Policy Framework Act, 2000 (Act No.5 of 2000) unless the context indicates otherwise;
- b) **"all applicable taxes"** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- c) **"bid"** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- d) **"business day"** means an official working day of the week between and including Monday to Friday and which excludes public holidays and weekends;
- e) **"comparative price"** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- f) **"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;
- g) **"contract"** means the agreement that results from the acceptance of a tender by an organ of state;
- h) **"designated sector"** means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content;
- i) **"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;
- j) **"imported content"** means that portion of the tender price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its 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 port of entry;

- k) "local content"** means that portion of the tender price which is not included in the imported content, provided that local manufacture does take place;
- l) "non-firm prices"** means all prices other than "firm" prices;
- m) "Order"** means an official written order issued for the supply of goods or works or the procuring of a service;
- n) "person"** includes a juristic person;
- o) "stipulated minimum threshold"** means that portion of local production and content as determined by the Department of Trade and Industry;
- p) "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;

SECTION A

INVITATION TO BID

APPOINTMENT OF A SERVICE PROVIDER FOR THE SELECTION AND IMPLEMENTATION OF A CLOUD-BASED ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM FOR THE ECRDA

REFERENCE NUMBER: SCMU 03 - 2025 2026

1. Background:

1.1 Introduction

The ECRDA is a Provincial Public Entity as referred to in Schedule 3C of the PFMA. The entity was established following a decision by the Government of the Eastern Cape to consolidate and integrate the overlapping mandates of provincial entities on matters pertaining to Rural Development and Agrarian reform. The ECRDA hereby invites suitably qualified bidders to submit proposals for the selection and implementation of a cloud-based Enterprise Resource Planning (ERP) system for the ECRDA.

1.2 Bid Specific Conditions

Bidders are required to properly complete the bid document, attach relevant information and adhere to the conditions as stipulated below.

1.2.1 Returnable documents

- a) Bidders must submit proof of registration on the National Central Supplier Database (CSD). In terms of National Treasury Instruction No. 4A of 2016/17 regarding the CSD, all bidders must register on the CSD to provide the following information to be verified through the CSD:
 - (i) Business registration, including details of directorship and membership;
 - (ii) Bank Account holder information;
 - (iii) In the service of the State status;
 - (iv) Tax compliance status;
 - (v) Identity number;
 - (vi) Tender default and restriction status.
- b) The following Standard Bidding Documents (SBDs) must be completed in full and duly signed where relevant.
 - (i) Authority of signature/Resolution
 - (ii) Invitation to bid (SBD 1).
 - (iii) Pricing schedule (SBD 3.3)
 - (iv) Bidder's Disclosure (SBD 4)
 - (v) Preference Points claim form (SBD 6.1)
 - (vi) Contract form (SBD 7.2)

- c) Failure by the bidder to submit duly completed documents as mentioned above will render the bid proposal non-responsive, while incomplete SBD6.1 will result in non-allocation of points for specific goals.

1.2.2 Submission of Bid Documents

- a) All standard bidding documents, forms, annexures and addenda (where applicable) shall be completed in full and signed where required.
- b) Any expenses incurred by the bidder in the preparation and submission of tender will be solely for the bidder's account and ECRDA shall not be liable for such expenses in whatsoever manner.
- c) The completed bid document must be submitted via email only to tenders@ecrda.co.za
- d) All email submissions must be broken into size smaller than 30MB per email (1 bid, 1 email).
- e) Bidders must refrain from submitting different bid documents under one email.
- f) All documents must preferably be sent in PDF (compressed if possible) format.
- g) Bidders are to note that bids must be received by ECRDA by the deadline. It is not sufficient to send it before the deadline.
- h) Bidders are therefore required to make sure that large emails, that may take long to be transported through email system, be sent well in advance of the required receipt deadline.
- i) Bidders MUST make use of the tender reference in their email subject lines.
- j) Bidders are recommended to make use of logical subject names for emails when submitting bids, for example (SCMU/RFP/RFQ/EOI REF NUMBER followed by a bid description).

1.2.3 Validity of prices

- a) All prices shall be quoted in South African currency inclusive of VAT and will hold good for **120 days** (validity period of bids) from the closing date.
- b) Only firm prices will be accepted in respect of this bid.

1.2.4 Negotiating a fair market price

- a) The ECRDA reserves the right to enter into negotiations with the preferred bidders for a fair market price if on its own assessment is of the view that the highest scoring bidder is charging prices higher than the fair market price.

1.2.5 Authority to sign

- a) Bidders must indicate the capacity under which the bid is signed by a delegated individual (e.g., director) and provide proof of authority (e.g., a resolution).
- b) The specimen of authority of signature/resolution has been attached in the bid document for both companies/close corporations/partnerships and sole proprietorship.

1.2.6 Trust/Consortium/Joint Ventures

- a) A trust/consortium/joint venture agreement must be formalized prior to submitting the bid.
- b) The trust/consortium/joint venture agreement must be submitted with the bid proposal bearing signatures of all the parties concerned and disclosing at a minimum the following key information:
 - Names of the parties to the agreement;
 - Management;
 - Percentage participation by each member;
 - Banking details

1.3 Bid Enquiries

- 1.3.1 Technical Enquiries should be directed to Mrs. S. Ntini - Telephone: 043 703 6300 or email: ntinis@ecrda.co.za.
- 1.3.2 Administrative Enquiries should be directed Mr. A. Langa -Telephone: 043 703 6300 or email: langaa@ecrda.co.za.

1.4 Contracting

- 1.4.1 The final award of the contract to the successful bidder is subject to issue of the following documents by ECRDA:
 - a) Contract form - SBD 7.2 for completion and signature by both ECRDA and the successful bidder. The contract form has been attached in the bid document for bidders to understand its contents as it will have a binding effect at contract award stage;
 - b) Letter of award (in terms of which the bidder must indicate acceptance/non-acceptance thereof by way of signature);
 - c) Service Level Agreement;
 - b) Purchase order.

1.5 Important to Note

- 1.5.1 The ECRDA reserves the right not to appoint the highest scoring bidder and/or not to appoint any bidder.
- 1.5.2 The ECRDA reserves the right to conduct due diligence to satisfy itself of the accuracy of the information provided.

BID NOTICE

The Eastern Cape Rural Development Agency (ECRDA) hereby invites experienced and competent service providers to submit bids as outlined below.

| Description | Evaluation Criteria | Compulsory Briefing Session | Closing Date and Time |
|--|-------------------------------|-----------------------------|-----------------------|
| SCMU 03 - 2024/25: Appointment of a service provider for the selection and implementation of a cloud-based Enterprise Resource Planning (ERP) system for the ECRDA | 80/20 Preference Point System | Yes | 23 June 2025 @ 11h00 |

Bid documents outlining the detailed requirements and terms of reference will be obtainable from ECRDA website (www.ecrda.co.za) or via email upon request.

A compulsory briefing session (virtual/physical) will be held on 06 June 2025 @11h00 at ECRDA Offices, 2nd Floor, Phase 3, 3-33 Phillip Frame Road, Waverley Office Park, Chiselhurst, EAST LONDON

Virtual Attendance:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_NTE3MGNkMWYtZDQxMC00Yjg5LWE1OTItNjZINTYxNmZmZGVl%40thread.v2/0?context=%7b%22Tid%22%3a%2246a02e0d-d691-41c5-abf2-9401586fc408%22%2c%22Oid%22%3a%222f1de49e-9afe-44de-8d38-385724cca8ba%22%7d

Join the meeting now

Meeting ID: 382 384 697 482 0

Passcode: Bd9B4vz2

Administrative Enquiries should be directed to Mr A Langa - Telephone: 043 703 6300 or email: langaa@ecrda.co.za

NB: Telephonic, telex, facsimile and late bids will not be accepted.

ECRDA reserves the right not to appoint.

ANNEXURE 1 (a)
AUTHORITY TO SIGN

SECTION B

2. AUTHORITY TO SIGN

Signatories for business entities shall confirm their authority thereto by attaching a duly signed and dated copy of the relevant resolution to this form.

An example is given below:

"By resolution passed at a meeting held on

Mr./Ms, whose signature appears below, has been duly authorized to sign all documents in connection with the bid for **Contract NO, SCMU 03 - 2025 2026** and any Contract that may arise there from on behalf of (name of Bidder in block capitals)

.....

SIGNED ON BEHALF OF THE COMPANY:

.....

IN HIS/HER CAPACITY AS:

.....

DATE:

.....

SIGNATURE OF SIGNATORY:

.....

WITNESSES:

1.

2.

ANNEXURE 1 (b)
AUTHORITY TO SIGN

Sole Proprietorship/Sole Ownership of Business Enterprise Resolution of Authority

I,, certify that I am the sole owner ("Owner"/ "Director") of the business operating under the name.....("Business"), ID Number/Registration Number.....

I further certify that the Business is a sole proprietorship/owned solely by myself and that there is no one else having any right, title, or interest therein. I am the only person authorized to act in the name of or on behalf of the Business.

I have no knowledge of any other business that is using, or being operated under, a name which could be considered confusingly similar to the name of this sole proprietorship. All deposits which are to be made into the account of the sole proprietorship/ business enterprise will consist of funds to which I, the sole proprietor/ director, am legally entitled.

SIGNATURE OF THE SOLE PROPRIETOR/ DIRECTOR:

DATE:

WITNESSES: 1.

2.

SECTION C

3. TERMS OF REFERENCE TO APPOINT A SERVICE PROVIDER FOR THE SELECTION AND IMPLEMENTATION OF A CLOUD-BASED ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM FOR THE ECRDA

3.1 Scope of Work

3.1.1 Background

The ECRDA is a Provincial Public Entity as referred to in Schedule 3C of the PFMA. The entity was established following a decision by the Government of the Eastern Cape to consolidate and integrate the overlapping mandates of provincial entities on matters pertaining to Rural Development and Agrarian reform. The ECRDA is looking for a suitable qualified service provider to select and implement an integrated cloud based ERP system. ECRDA currently has the following ICT infrastructure/Technology:

Sage ERP 300

Sage Premier HR

Sage Premier VIP

Sage Premier ESS

Fraxion Spend Manager

3.1.2 Purpose

The purpose of this bid is to appoint an experienced and suitably qualified service provider to supply, license and implement the proposed integrated ERP solution for a period of 5 years.

The aim of the integrated ERP solution is to automate the main functions of ECRDA. This will mean the processing, analysing, reporting, retrieving, managing and rearranging of data/information is much easier.

3.1.3 Scope of work

The scope of the assignment is detailed here below:

- ECRDA seeks to select and implement a cloud based integrated (ERP) solution that will migration of data from existing or current systems and enable the following business functions (but not limited):
 - Human Resources (Talent management /Leave management/Payroll management/Performance Management)

-
- Finance (All finance related modules and budget monitoring and managing tool)
 - Procurement (as per SCM policies of ECRDA)
 - Contract management (full life cycle management)
 - Operations
 - a) Asset Management module (full life cycle management)
 - b) Grant module (to cater for ins and out)
 - Project Management
- Underpinning these functions are the capabilities namely (but not limited):
 - Business Intelligence and Reporting
 - Project Management Budget, Milestone Reporting
 - Workflow and Electronic Document Management
 - Mobile responsiveness
 - Seamless integration using API best practices to allow for integration into other mainstream ERP/ HR platforms and South African banking services
 - IOT - Internet of Things capable
 - AI capable (Artificial Intelligence)

The selected system must enable the core functions (fully integrated), scalable and provide the listed capabilities. The ECRDA currently has a staff complement of approximately 155 and is planning a growth of +10 over the duration of the contract. Payroll functionality to cater for a minimum of 3000 employees over multiple companies.

SOLUTION REQUIREMENTS

A thorough analysis of the ECRDA environment has been carried out in order to determine the technical and functional requirements for the solution fit. The solutions architecture provides a functional blueprint to which the selected solution must align. The selected ERP system must fit these requirements.

The diagram below clearly illustrates the functional requirements in terms of the technological capabilities and the business components that it enables. The selected solution must be:

- Fit for Purpose
- Future Fit
- Cloud based ERP (All modules) and/or SAAS model should be hosted within the border of South Africa

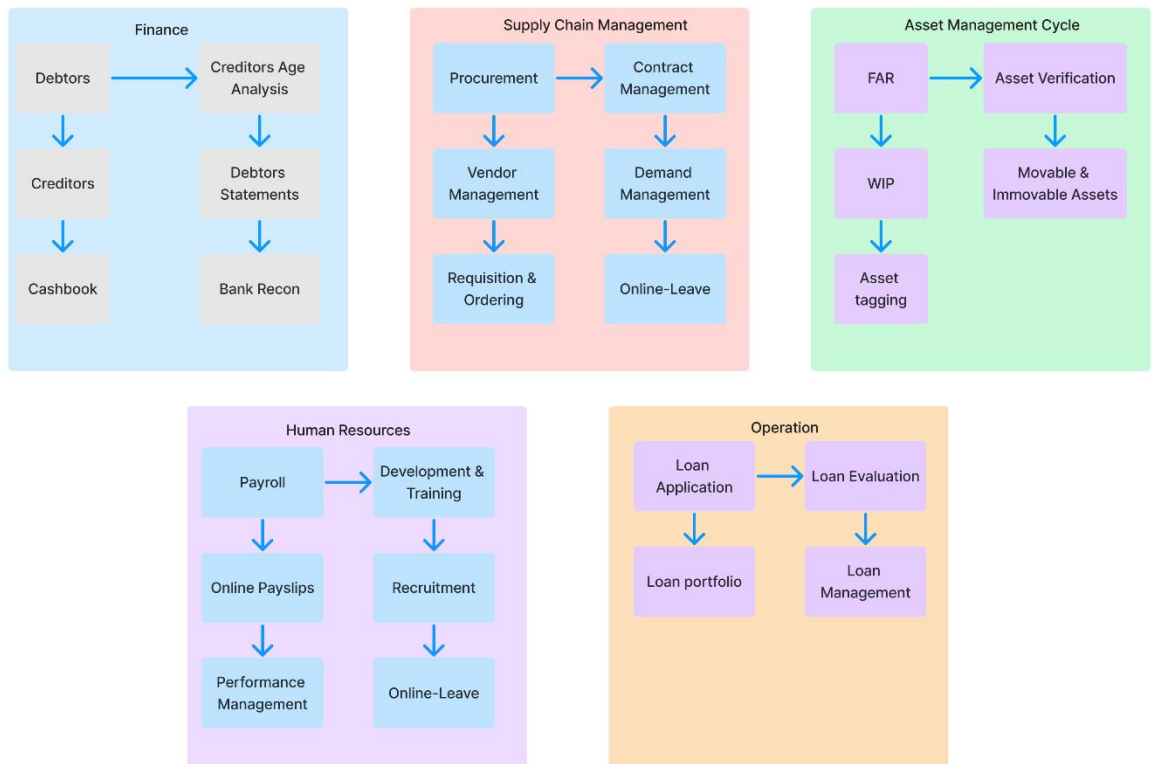
This means that it must enable the existing and future requirements. The Solution must:

- Scale as the business requires.
- Cloud-based and/or Software As a Service (SAAS) solution where all the operational requirements such as Disaster recovery, Backups, Security,

etc. are provided.

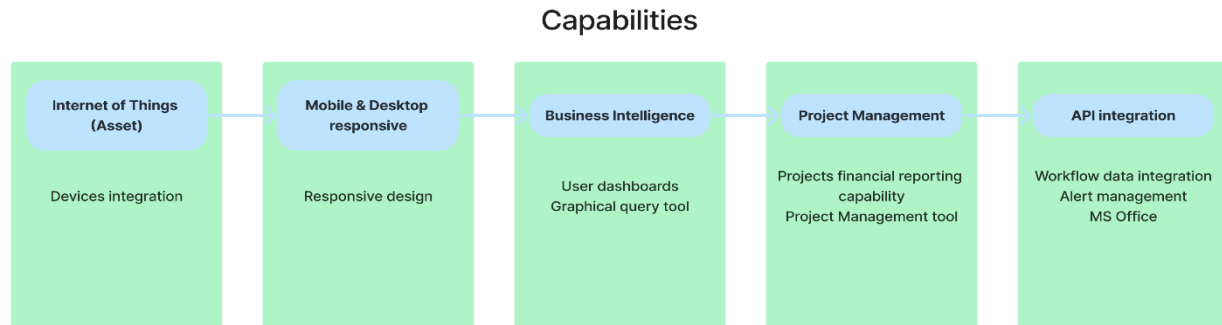
- As ECRDA do not have internal IT support the solution must be fully supported off premise(remotely)
- Accessible through all interfaces namely desktop, web based and mobile in so far as security permits. System must be adaptive and responsive to the interface used.
- Must have backend workflow capability for the automation of ad hoc business processes and flow across business functions.
- Easy configurable reporting and dashboards (downloadable in various formats i.e. Excel/PDF etc.).
- Future fit capability is IOT (Internet of Things)..
- Future fit in terms of Artificial Intelligence integration.
- Document Management and the ability to scan, archive and retrieve documents with version control.

ECRDA Business Processes



CAPABILITIES

The capabilities are further broken down and illustrated in the diagram below:



INFORMATION SECURITY

- Data/Information always remains in the ownership of ECRDA.
- The service provider must use South African-based data centres.
- Solution must have user and password management functionality.
- Must utilise data encryption technology on all data at rest and in transit.
- Must support Single Sign On (SSO) or Multi Factor Authentication (MFA), (active directory integration will be preferable)

ARCHIVING AND DISASTER RECOVERY

- Provide offline backup and be regularly tested.
- Support the Archiving of all information stored in the database.
- Maintain a detail Disaster Recovery Plan

REQUIRED SERVICE LEVELS

- Provide 24/7/365 client service support for all users, when required with a 2-hour response and 8-hour repair or replace service.
- Service Provider must ensure a minimum of 98% systems availability.
- Any changes for upgrades that will require downtime must be communicated at least 72hrs in advance.

PRICING:

It must be noted that costs are a key determining factor as the ECRDA fits the profile of an SMME, subject to compliance with preliminary and technical bid requirements.

Licensing:

From a pricing perspective the vendor must provide two options:

- Purchase with annual licensing
- Subscription

Note: Complete pricing as per the tables below:

| Licensing Costs Subscription | | | | | | |
|------------------------------|-------|-------|-------|-------|-------|-------|
| Description | Year1 | Year2 | Year3 | Year4 | Year5 | Total |
| Subscription | | | | | | |

| Licensing Costs Purchase | | | | | | | |
|--------------------------|---------------|-------|-------|-------|-------|-------|-------|
| Description | Purchase Cost | Year1 | Year2 | Year3 | Year4 | Year5 | Total |
| Purchase | | | | | | | |

The subscription licensing option must be for a period of 60 months. These costs will be determined and fixed for the full period.

Hosting/Support:

The proposal must include all hosting and support costs.

| Hosting Costs | | | |
|------------------------------------|-------|-------------|-------|
| Description | Hours | Hourly Rate | Total |
| Hosting/Cloud Monthly Subscription | | | |
| Hosting/Cloud Implementation | | | |

Implementation:

This RFP contains enough high-level detail for the responding vendor to provide the costs for implementation. The costs must be shown as follows:

| Implementation Costs | | | |
|--|-------|-------------|-------|
| Description | Hours | Hourly Rate | Total |
| Business Analysis | | | |
| Design and Configuration | | | |
| Deployment and Testing | | | |
| Change and Transformation | | | |
| Project Management (If required) | | | |
| Post implementation training | | | |
| Post implementation support | | | |
| Project Mobilization and development of business process | | | |

Kindly note that payment will be based on deliverables rather than total hours spent.
 The rate per hour must include VAT.

Phase 2: Technical Functionality Compliance.

Bidders must score at least 70 out of 100 in respect of functionality in order to qualify for advancement to Phase 3. A bidder that scores less than 70 out of 100 will be regarded as submitting a non-responsive bid and will be disqualified. Bidders who fail to obtain a minimum score for each criterion will be disqualified.

The weight that will be allocated to each functionality criterion is as follows:

1 = poor, 2 = average, 3 = good, 4 = very good, and 5 = excellent

A bidder must meet 70 out of 100 on technical mandatory requirements.

Functionality evaluation will be based on the following criteria:

| NO | CRITERIA | Points (1-5) | Weight Criterion | Individual Scoring % |
|----------|---|--------------|------------------|----------------------|
| 1 | Company Experience: Client References | | 15 | |
| | The bidder must have proven experience in the implementation of the proposed ERP system: | | | |
| | The bidder must provide reference letters from previous clients where the bidder has implemented the proposed ERP system. | | | |
| | References must be on client's letter heads and shall include date and description of service, term of agreement, organization's name, and contact person, title, address and telephone number. | | | |
| | 5 or more client references | 5 | | |
| | 4 or more client references | 4 | | |
| | 3 or more client references | 3 | | |
| | 2 or more client references | 2 | | |
| | 1 or less client references | 1 | | |

| | | | | |
|----------|--|----------|----------|--|
| 2 | Team Capabilities: Project manager The project manager must have a minimum of seven (7) years' experience project managing the support and implementation of ERP systems. In addition, the above requirements project manager must have a valid ERP implementation and support certification. Please furnish us with a comprehensive CV of the project manager which must as minimum indicate the following: <ul style="list-style-type: none"> • Personal information • Qualification • Work experience • Contactable references • ERP implementation and support certification | | 5 | |
| | 10 Years or more experience | 5 | | |
| | 8 Years or more experience | 4 | | |
| | 6 Years or more experience | 3 | | |
| | 4 Years or more experience | 2 | | |
| | 3 Years or more experience | 1 | | |
| | | | | |
| | Team Capabilities: Lead Consultant The consultant must have a minimum of five (5) years' years' experience project managing the support and implementation of ERP systems. Please furnish us with a comprehensive CV of the project manager which must as minimum indicate the following: <ul style="list-style-type: none"> • Personal information • Qualification • Work experience • Contactable references | | 5 | |
| | 7 Years or more experience | 5 | | |
| | 6 Years or more experience | 4 | | |
| | 5 Years or more experience | 3 | | |
| | 4 Years or more experience | 2 | | |
| | 3 Years or more experience | 1 | | |
| | | | | |

| | | | | |
|--|---|--|----------|--|
| | Team Capabilities: Consultants The lead consultant must have a minimum of seven (5) years' experience project managing the support and implementation of ERP systems. | | 5 | |
|--|---|--|----------|--|

| | | | | |
|----------|---|----------|-----------|--|
| | Please furnish us with a comprehensive CV of the project manager which must as minimum indicate the following: <ul style="list-style-type: none"> • Personal information • Qualification • Work experience • Contactable references | | | |
| | 6 Years or more experience | 5 | | |
| | 5 Years or more experience | 4 | | |
| | 4 Years or more experience | 3 | | |
| | 3 Years or more experience | 2 | | |
| | 2 Years or more experience | 1 | | |
| 3 | Company experience Number ERP system support and implementation services provided to clients in the previous 5 years. | | 15 | |
| | More than 5 ERP system support and implementation services provided to clients in the previous 5 years. 5 | 5 | | |
| | 4 to 5 ERP system support and implementation services provided to clients in the previous 5 years. 3 | 4 | | |
| | 2 to 3 ERP system support and implementation services provided to clients in the previous 5 years. 3 | 3 | | |
| | 1 to 2 ERP system support and implementation services provided to clients in the previous 5 years. 2 | 2 | | |
| | 0 to 1 ERP system support and implementation services provided to clients in the previous 5 years. 1 | 1 | | |

| | | | | |
|----------|---|----------|-----------|--|
| 4 | Project plan: The bidder must provide the detailed project plan clarifying the implementation approach and specify the below: <ul style="list-style-type: none"> ➤ Work breakdown structure ➤ Milestones ➤ Duration ➤ Resource allocation to tasks ➤ Project phases | | 10 | |
| 5 | The bidder's proposed ERP system must meet the business requirements specification. The bidder must specify how the proposed solution will meet as a minimum the following business requirements as outlined below: Business fit 20% Value for money 10% Integration 10% Cloud based 10% Remote IT System support 15% Document management capabilities 10% | | 40 | |
| | Contract management capabilities 5% Future fit capability 5% Easy configurable reporting and dashboards 10% Accessible through various interfaces e.g. laptops, desktops and mobiles 5% | | 5 | |
| | >90 to 100% | 5 | | |
| | 75 to 90% | 4 | | |
| | 61 - 75% | 3 | | |
| | 50 to 60% | 2 | | |
| | 50% or less | 1 | | |

The service Provider who fail to meet 70 out of 100 will automatically be disqualified

All compliant bidders may be required to provide a demonstration of their proposed solution to the ECRDA adjudication committee, if requested.

Duration

- The successful bidder shall be required to deliver within thirty (30) days of issuing of the purchase order.
- The delivery period (days/months) must be clearly indicated on the relevant section of SBD 3.3.

Costing

- A detailed quotation must be provided.
 - The costing provided must be VAT inclusive.
-

SECTION D

3. EVALUATION PROCESS AND CRITERIA

Proposals will be evaluated in terms of the ECRDA Supply Chain Management Policy, Preferential Procurement Policy Framework Act 2000 and the Preferential Procurement Regulation of 2022.

The evaluation of bid responses will be conducted in three (3) phases as follows:

4.1 Phase 1: Eligibility/Pre-qualification criteria

Bidders will be evaluated according to pre-qualification requirements which include the submission of mandatory information or documentation. Bidders that fail to meet the pre-qualification requirements of the bid will not be considered further for evaluation.

The bidder must meet the following pre-qualification requirements:

- a) The firm must be registered on the National Treasury supplier database at the time of submitting the proposal.
- b) Submission of the following Signed and Completed Standard Bid Documents (SBD) Forms:
 - Authority to sign/ Resolution
 - SBD 1: Invitation to Bid
 - SBD 3.3 Pricing Schedule
 - SBD 4: Bidder's Disclosure
- c) Failure to comply with the above pre-qualification requirements will lead to the disqualification of the bid while incomplete SBD 6.1 will result in non-allocation of points for specific goals.

4.2 Phase 2: Technical Evaluation

4.2.1 Bidders must submit required information with the bid proposal as outlined in section C above, in the terms of reference and section E below.

4.2.2 The service provider shall be required to deliver within thirty (30) days of issuing of the purchase order. The period must be clearly outlined in SBD 3.3.

4.3 Phase 3: Financial Proposal and Specific Goals evaluation

Bids that meet the technical specifications will be evaluated further in terms of the 80/20 preference point system.

The preference point's claim is in terms of the Preferential Procurement Regulations 2022.

| | |
|--|------------------|
| As per the table below, price is evaluated over 80 points and preference points over 20: | 80 Points |
| Price Assessment | 80 Points |
| Specific Goals: | 20 Points |
| Race | 6 |
| Gender | 6 |
| Disability | 4 |
| Youth | 4 |

SECTION E

5. Technical Information

5.1 Documentation to be submitted by interested Bidder - Specific

5.1.1 Interested persons (hereinafter referred to as Bidders) are required to respond to the specifications by submitting their detailed responses with supporting documentation as stipulated hereunder. Incomplete and non-compliant responses will not be considered.

5.2 Contractual Requirements

5.2.1 Bidders are invited to submit proposals for the selection and implementation of a cloud-based Enterprise Resource Planning (ERP) system for the ECRDA.

5.2.2 The service provider shall be required to deliver within thirty (30) days of issuing of the purchase order.

5.3 Consideration of Bids

5.3.1 There will be a compulsory briefing session (virtual or physical attendance) for this bid.

5.3.2 Only bidders who have met the prequalification criteria and technical requirements following an assessment of the proposal submitted in response to this RFQ will be evaluated further based on price and specific goal points.

5.4 Duration of the Contract

5.4.1 The service provider shall be required to deliver within thirty (30) days of issuing of the purchase order.

5.4.2 A service level agreement (SLA) will be entered into between ECRDA and the winning bidder.

SECTION F

Table 1: Compulsory returnable documents that must be submitted for Pre-qualification

| Document that must be submitted | Non-submission will result in disqualification | |
|---|---|--|
| Invitation to Bid - SBD 1 | Yes | Complete and sign the supplied pro forma document. |
| Authority to sign/Resolution | Yes | Complete and sign the supplied pro forma document/ Attach resolution |
| Pricing Schedule SBD 3.3 | Yes | Complete the supplied pro forma document. Ensure that the information required below is provided Price validity period <input type="text"/> Delivery period on issuing of purchase order <input type="text"/> |
| Detailed Quotation | Yes | Attach detailed quotation |
| Company Experience : Client Reference | Yes | Attach proven experience |
| Team Capabilities: Project Manager Lead Consultant Consultants | Yes | Submit comprehensive CVs |
| Company Experience | Yes | Provide proof |
| Project Plan | Yes | Provide detailed project plan |
| Proposed ERP | Yes | Provide proposed solution |
| Contract Management | Yes | Submit |
| Bidder's Disclosure - SBD 4 | Yes | Complete and sign the supplied pro forma document |
| Preference Point Claim Form - SBD 6.1 | No | Complete and sign the supplied pro forma document Incomplete form will lead to a zero (0) score on BBBEE |
| Registration on Central Supplier Database (CSD) | Yes | The bidder must be registered as a service provider on the Central Supplier Database (CSD). If you are not registered proceed to complete the registration of your company prior to submitting your proposal. Visit https://secure.csd.gov.za/ to obtain your vendor number. Submit proof of registration. |

The ECRDA does not bind itself to the completeness of the checklist for pre-qualification and technical requirements. As such, it is incumbent on the bidders to ensure that compliance with all the bid requirements is adhered to.

SECTION G: STANDARD BIDDING DOCUMENTS

ANNEXURE II
PART A
INVITATION TO BID
SBD 1

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (EASTERN CAPE RURAL DEVELOPMENT AGENCY [ECRDA])

| | | | | | |
|-------------|---------------------|---------------|--------------|---------------|-------|
| BID NUMBER: | SCMU 03 - 2025 2026 | CLOSING DATE: | 23 JUNE 2025 | CLOSING TIME: | 11H00 |
|-------------|---------------------|---------------|--------------|---------------|-------|

DESCRIPTION APPOINTMENT OF A SERVICE PROVIDER FOR THE SELECTION AND IMPLEMENTATION OF A CLOUD-BASED ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM FOR THE ECRDA

BID RESPONSE DOCUMENTS MUST BE SUBMITTED VIA EMAIL TO: tenders@ecrda.co.za

BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO

TECHNICAL ENQUIRIES MAY BE DIRECTED TO:

| | | | |
|------------------|--|------------------|--|
| CONTACT PERSON | Mr A Langa | CONTACT PERSON | S Mgudlwa |
| TELEPHONE NUMBER | 043 703 6300 | TELEPHONE NUMBER | 043 703 6300 |
| FACSIMILE NUMBER | | FACSIMILE NUMBER | |
| E-MAIL ADDRESS | langaa@ecrda.co.za | E-MAIL ADDRESS | mgudlwas@ecrda.co.za |

SUPPLIER INFORMATION

| | | | | |
|------------------|------|--|--------|--|
| NAME OF BIDDER | | | | |
| POSTAL ADDRESS | | | | |
| STREET ADDRESS | | | | |
| TELEPHONE NUMBER | CODE | | NUMBER | |
| CELLPHONE NUMBER | | | | |

| | | | | |
|---|--|--|--|---|
| FACSIMILE NUMBER | CODE | | NUMBER | |
| E-MAIL ADDRESS | | | | |
| VAT REGISTRATION NUMBER | | | | |
| SUPPLIER COMPLIANCE STATUS | TAX COMPLIANCE SYSTEM PIN: | | OR | CENTRAL SUPPLIER DATABASE No: MAAA |
| <i>ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES OFFERED?</i> | <input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF] | | <i>ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES OFFERED?</i> | <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)? ☐ YES ☐ NO
- DOES THE ENTITY HAVE A BRANCH IN THE RSA? ☐ YES ☐ NO
- DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? ☐ YES ☐ NO
- DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? ☐ YES ☐ NO
- IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? ☐ YES ☐ 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, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).

2. TAX COMPLIANCE REQUIREMENTS

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

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

SIGNATURE OF THE BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

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

DATE:

ANNEXURE III
DETAILED QUOTATION

BIDDERS MUST ATTACH A DETAILED QUOTATION

This information shall be deemed to be material to the award of the Contract.

PRICING:

It must be noted that costs are a key determining factor as the ECRDA fits the profile of an SMME.

Licensing:

From a pricing perspective the vendor must provide two options:

- Purchase with annual licensing
- Subscription

Note: Complete pricing as per the tables below:

| Licensing Costs Subscription | | | | | | |
|------------------------------|-------|-------|-------|-------|-------|-------|
| Description | Year1 | Year2 | Year3 | Year4 | Year5 | Total |
| Subscription | | | | | | |

| Licensing Costs Purchase | | | | | | | |
|--------------------------|---------------|-------|-------|-------|-------|-------|-------|
| Description | Purchase Cost | Year1 | Year2 | Year3 | Year4 | Year5 | Total |
| Purchase | | | | | | | |

The subscription licensing option must be for a period of 60 months. These costs will be determined and fixed for the full period.

Hosting/Support:

The proposal must include all hosting and support costs.

| Hosting Costs | | | |
|------------------------------------|-------|-------------|-------|
| Description | Hours | Hourly Rate | Total |
| Hosting/Cloud Monthly Subscription | | | |
| Hosting/Cloud Implementation | | | |

Implementation:

This RFP contains enough high-level detail for the responding vendor to provide the costs for implementation. The costs must be shown as follows:

| Implementation Costs | | | |
|--|-------|-------------|-------|
| Description | Hours | Hourly Rate | Total |
| Business Analysis | | | |
| Design and Configuration | | | |
| Deployment and Testing | | | |
| Change and Transformation | | | |
| Project Management (If required) | | | |
| Post implementation training | | | |
| Post implementation support | | | |
| Project Mobilization and development of business process | | | |

Kindly note that payment will be based on deliverables rather than total hours spent. The rate per hour must include VAT.

SIGNED ON BEHALF OF THE BIDDER:

ANNEXURE IV
PRICING SCHEDULE – FIRM PRICES
SBD 3.3

PRICING SCHEDULE
(Professional Services)

NAME OF BIDDER:

BID NO.: SCMU 03 - 2025 2026

CLOSING TIME: 11:00

CLOSING DATE: 23 JUNE 2025

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

| ITEM NO | DESCRIPTION | BID PRICE IN RSA CURRENCY |
|---------|---|---------------------------|
| 1. | APPOINTMENT OF A SERVICE PROVIDER FOR THE SELECTION AND IMPLEMENTATION OF A CLOUD-BASED ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM FOR THE ECRDA | |

1. The accompanying information must be used for the formulation of proposals.
2. Bidders are required to indicate a ceiling price based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project.
3. Period required for commencement with project after acceptance of bid
4. Are the rates quoted firm for the full period of contract? *YES/NO
5. If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index.

.....

NB. Bidders must attach a detailed quotation as required on page 13-14.

Any enquiries regarding bidding procedures may be directed to –

Mr. A. Langa

Tel: 043 703 6300

Email: Langaa@ecrda.co.za

ANNEXURE V
SBD 4
BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

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

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

2. Bidder's declaration

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

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

| Full Name | Identity Number | Name of State institution |
|-----------|-----------------|---------------------------|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

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

2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES/NO**

2.2.1 If so, furnish particulars:

.....
.....

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

2.3.1 If so, furnish particulars:

.....
.....

3 DECLARATION

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

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.

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

-
- 3.5 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.6 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 3.7 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

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

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

.....

Signature

.....

Date

.....

Position

.....

Name of bidder

ANNEXURE VI
PREFERENCE POINTS CLAIM FORM
SBD 6.1

SBD 6.1

**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL
PROCUREMENT REGULATIONS 2022**

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

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

1. GENERAL CONDITIONS

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

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

1.2 To be completed by the organ of state

(delete whichever is not applicable for this tender).

- a) The applicable preference point system for this tender is the **90/10** preference point system.
- b) The applicable preference point system for this tender is the **80/20** preference point system.
- c) Either the **90/10 or 80/20 preference point system** will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

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

- (a) Price; and
-

(b) Specific Goals.

1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

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

- 1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.
- 1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

2. DEFINITIONS

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

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

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

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

| | | |
|--------------|-----------|--------------|
| 80/20 | or | 90/10 |
|--------------|-----------|--------------|

$$Ps = 80 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right) \text{ or } Ps = 90 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

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

3.2.1. POINTS AWARDED FOR PRICE

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

| | | |
|---|-----------|--------------|
| 80/20 | or | 90/10 |
| $Ps = 80 \left(1 + \frac{Pt - P_{max}}{P_{max}} \right) \text{ or } Ps = 90 \left(1 + \frac{Pt - P_{max}}{P_{max}} \right)$ | | |

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmax = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
-

(b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

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

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

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

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

| The specific goals allocated points in terms of this tender | Number of points allocated (90/10 system) (To be completed by the organ of state) | Number of points allocated (80/20 system) (To be completed by the organ of state) | Number of points claimed (90/10 system) (To be completed by the tenderer) | Number of points claimed (80/20 system) (To be completed by the tenderer) |
|---|--|--|--|--|
| Race (black ownership) | N/A | 6 | N/A | |
| Gender (female ownership) | N/A | 6 | N/A | |
| Disability | N/A | 4 | N/A | |
| Youth | N/A | 4 | N/A | |

DECLARATION WITH REGARD TO COMPANY/FIRM

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

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
 - (a) disqualify the person from the tendering process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution, if deemed necessary.

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

SURNAME AND NAME:

DATE:

ADDRESS:

.....

.....

.....

ANNEXURE VIII
CONTRACT FORM – RENDERING OF SERVICES
SBD 7.2

CONTRACT FORM - RENDERING OF SERVICES

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

PART 1 (TO BE FILLED IN BY THE SERVICE PROVIDER)

1. I hereby undertake to render services described in the attached bidding documents to (name of the institution)..... in accordance with the requirements and task directives / proposals specifications stipulated in Bid Number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid .
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
 - (i) Bidding documents, viz
 - Invitation to bid;
 - Proof of tax compliance status;
 - Pricing schedule(s);
 - Filled in task directive/proposal;
 - Preference claim form for Preferential Procurement in terms of the Preferential Procurement Regulations;
 - Bidder's Disclosure form;
 - Special Conditions of Contract;
 - (ii) General Conditions of Contract; and
 - (iii) Other (specify)
3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s)

and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.

4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.
5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT)

CAPACITY

SIGNATURE

NAME OF FIRM

DATE

WITNESSES

1

2

DATE:

PART 2 (TO BE FILLED IN BY THE PURCHASER)

- | DESCRIPTION OF SERVICE | PRICE (ALL APPLICABLE TAXES INCLUDED) | COMPLETION DATE | TOTAL PREFERENCE POINTS CLAIMED | POINTS CLAIMED FOR EACH SPECIFIC GOAL |
|------------------------|---------------------------------------|-----------------|---------------------------------|---------------------------------------|
| | | | | |

- NAME (PRINT)

SIGNATURE

OFFICIAL STAMP

WITNESSES

1

2

DATE:

ANNEXURE IX
GENERAL CONDITIONS OF CONTRACT

SECTION G

THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT:
GENERAL CONDITIONS OF CONTRACT

July 2010

GOVERNMENT PROCUREMENT

GENERAL CONDITIONS OF CONTRACT

July 2010

NOTES

The purpose of this document is to:

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

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

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

TABLE OF CLAUSES

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

General Conditions of Contract

1. Definitions

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

RSA.

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

5. Use of contract documents and information; inspection.

5.1 The supplier shall not, without the purchaser’s prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.

5.2 The supplier shall not, without the purchaser’s prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.

5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier’s performance under the contract if so required by the purchaser.

5.4 The supplier shall permit the purchaser to inspect the supplier’s records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

6. Patent rights

6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.

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| 7. Performance security | <p>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.</p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none">(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 <p>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.</p> |
| 8. Inspections, tests and analyses | <p>8.1 All pre-bidding testing will be for the account of the bidder.</p> <p>8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>8.7 Any contract supplies may on or after delivery be inspected, tested or</p> |
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analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.

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

9. Packing

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

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

10. Delivery and documents

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

11. Insurance

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

12. Transportation

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

13. Incidental services

- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
 - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
 - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

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

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

14. Spare parts

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

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

15. Warranty

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

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

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

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

15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take

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

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| 16. Payment | <p>16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.</p> <p>16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.</p> <p>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.</p> <p>16.4 Payment will be made in Rand unless otherwise stipulated in SCC.</p> |
| 17. Prices | <p>17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.</p> |
| 18. Contract amendments | <p>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.</p> |
| 19. Assignment | <p>19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.</p> |
| 20. Subcontracts | <p>20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.</p> |
| 21. Delays in the supplier's performance | <p>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.</p> <p>21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.</p> <p>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.</p> <p>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</p> |

supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.

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

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

22. Penalties

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

23. Termination for default

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

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

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

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

23.4 If a purchaser intends imposing a restriction on a supplier or any

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

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

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

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

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

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

24. Anti-dumping and countervailing duties and rights

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

may be due to him

**25. Force
Majeure**

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

**26. Termination for
insolvency**

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

**27. Settlement of
Disputes**

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

**28. Limitation of
liability**

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

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| | (b) aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment. |
| 29. Governing language | 29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English. |
| 30. Applicable law | 30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC. |
| 31. Notices | <p>31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice</p> <p>31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.</p> |
| 32. Taxes and duties | <p>32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.</p> <p>32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.</p> <p>32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.</p> |
| 33. National Industrial Participation (NIP) 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 | <p>34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).</p> <p>34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.</p> |

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

Js General Conditions of Contract (revised July 2010)