



LIMPOPO

PROVINCIAL GOVERNMENT
REPUBLIC OF SOUTH AFRICA

DEPARTMENT OF
ECONOMIC DEVELOPMENT, ENVIRONMENT & TOURISM

TERMS OF REFERENCE

**APPOINTMENT OF A SERVICE PROVIDER FOR ATMOSPHERIC
EMISSIONS INVENTORY DEVELOPMENT, AIR QUALITY MODELING
AND BASELINE AIR QUALITY ASSESSMENT FOR SEKHUKHUNE
DISTRICT MUNICIPALITY**

TECHNICAL SPECIFICATION

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1. PURPOSE

The Limpopo Department of Economic Development, Environment and Tourism (LEDET) seeks to appoint a service provider to carry out emissions inventory development, air quality modeling and baseline air quality assessment for Sekhukhune District Municipality (SDM). Emissions inventory, air quality modelling information and baseline air quality data are essential elements of an Air Quality Management Plan (AQMP) which is crucial in ensuring effective coordination of air quality management services as provided for in the National Environmental Management: Air Quality Act, (Act No. 39 of 2004) hereafter referred to as "the Air Quality Act". Furthermore, this seeks to improve the state of air quality in the district and to contribute to attainment of citizens' constitutional right to an environment that is not harmful to their health and wellbeing.

2. BACKGROUND AND CONTEXT

Baseline assessment for air quality management plan development process establishes the current state of air quality in a specific area, serving as a foundation for identifying issues, developing targeted interventions, and setting emission reduction goals. It involves characterising air quality, including ambient air quality measurements and modelling, and identifying emission sources. This assessment helps in understanding compliance with ambient air quality standards, potential health and environmental risks, and informing the development of effective AQMPs.

The key components of a baseline assessment are emissions inventory (identifying and quantifying emissions from various sources such as industrial activities, vehicles, and residential areas), ambient air quality characterisation (monitoring and analysing air quality data from various sources including monitoring stations and dispersion models), compliance assessment (evaluating the current air quality against established standards and identifying areas of non-compliance), health and environmental risk assessment (assessing the potential impacts of air pollution on human health and the environment), and capacity assessment (evaluating the capacity of role players to manage air quality, including resources, expertise and existing management tools)

2.1 Problem Statement

In 2008 SDM developed its AQMP which provided strategic direction for the implementation of air quality interventions in the district, as well as an essential blueprint for action to reduce emissions in the area. The 2017 National Framework for Air Quality Management in the Republic of South Africa and the 2012 Manual for the development of AQMP in South Africa recommends that AQMPs should be reviewed on a five yearly basis. The 2008 SDM AQMP is therefore currently outdated and noncompliance with regulatory requirements.

In an attempt ensure compliance with the regulatory requirements, the district municipality initiated to review the AQMP in-house. The review process could not be finalised due to lack of in-house technical capacity or financial resources to appoint a service provider for emissions inventory development, air quality modeling and baseline air quality assessment.

In 2022 Cabinet made a decision for provincial departments responsible for environmental management to urgently design and implement interventions to support municipalities that are poorly performing environmental management functions in order to improve the sector's performance. The main challenges contributing to poor performance by municipalities include:

- i. Lack of capacity to execute responsibilities;
- ii. Lack of financial resources; and
- iii. Outdated AQMPs .

A Baseline assessment (emissions inventory development, air quality modeling and baseline air quality assessment, risk assessment, and capacity assessment) should be carried out to enable SDM to identify key air quality issues and areas of concern that need to be addressed in the AQMP, to provide a robust scientific basis for setting realistic and achievable emission reduction targets, to inform the development of specific interventions to improve air quality, and to establish a baseline against which the effectiveness of the AQMP interventions can be measured over time.

2.2 Motivation

The main reason for managing air quality is to minimise the risk of poor air quality impacting on human health. The development and implementation of SDM AQMP is a mandatory process towards addressing various impacts of air pollution and towards ensuring environmental sustainability. In terms of section 15(2) of Chapter 3 of the National Environmental Management: Air Quality Act No. 39 of 2004 (Air Quality Act) each municipality must include an AQMP in its Integrated Development Plan (IDP). Limpopo Department of Economic Development, Environment and Tourism (LEDET) is vested with environmental management responsibilities in the province, with the Directorate Environmental Quality Management responsible for the implementation of air quality management functions. The department also plays an oversight role in air quality management matters in the province and as set out in section 8(b) of the Air Quality Act, LEDET has a responsibility to monitor the performance of municipalities, provide support and ensure a coordinated and integrated air quality management in the province.

Furthermore, air quality management is a function built on intergovernmental collaboration for air quality improvements and human health protection through established strategies and actions, and therefore it is mandatory that the department intervenes by implementing tangible municipal support programs to ensure performance improvements, capacity building and air quality management service delivery enhancement for poorly performing municipalities. Accordingly, the department has an obligation to implement the Cabinet decision and provide support to SDM in relation to air quality management functions specifically the review of SDM AQMP which will be essential for providing a strategic direction for the implementation of air quality management interventions as well as an essential blueprint for action to reduce atmospheric emissions in the district. The baseline assessment is a crucial step that will ensure the development of an effective AQMP for SDM by providing a comprehensive understating of the current air quality situation and identifying areas where action is required.

3. OBJECTIVES

The main purpose of the project is to conduct a baseline assessment (Emissions Inventory Dispersion Modeling, Baseline Air Quality Data) in order to develop AQMP that will establish an effective and sound basis for the protection and enhancement of air quality in the district. The project will generate information that will assist the district municipality to better understand temporal and spatial variations in ambient pollutants concentrations, to design effective intervention strategies and to assess compliance with air quality standards. The project will also provide a scientific basis for establishment of a regional air quality monitoring network and support improved cumulative air quality assessments for new developments within the District Municipality.

The project outcomes will then inform the pending air quality management planning process for the district municipality, the development of relevant interventions to be taken by various role players as well as the air quality management resource allocation decisions to ensure that air quality in the district meets the national ambient air quality standards and promotes a healthy living environment for the people of Sekhukhune District.

The objective is to develop a scientifically well informed, robust, and cost-effective air quality baseline information using ultramodern scientific tools and advanced analysis techniques to ensure air quality improvements as well as strategically benefit socio-economic activities of the district. The project will, within specific timeline:

- Provide descriptive analysis on geography, district statistical features along with preparation of ground observations, satellite retrievals (both compositional and optical) and coupled model prerequisite datasets
- Conduct air quality observational data screening, evaluation, and catalogued analysis based on standards,
- Provide estimates of district emissions from various natural events, biomass burning activities and different anthropogenic sectors,
- Conduct status-quo simulation and verification
- Provide spatio-temporal distribution analysis on status-quo pollutants, in reference to the standards
- Provide meteorological climatology and multi correlative analysis among meteorological variables and air pollutants
- Provide fine-tuned percentage contribution simulations and their spatio-temporal analysis
- Establish the status of the air quality in the district post implementation of the 2008 SDM AQMP;

The following pillar questions must optimally be addressed through the AQMP development process:

- What are the emission contributions from various natural events, biomass burning activities and different anthropogenic sectors, etc.?
- What is the district current state of air quality (known as status-quo)?
- How the district air quality has been changing over recent years?
- What are main pollutants of concern for the district?
- What are the priority areas of the district?

- Is there prioritization based on the diurnal and/or seasonal patterns of the air quality changes?
- What are the main local sources for pollutants of concern?
- Is there a trans-boundary contribution for pollutants of concern, if so, how much? and
- How much is the role of other regional factors that plays important role in driving the air quality of the district municipality?

After providing answers for these pillar questions, through engagement with different stakeholders, the public and various spheres of government – the project should describe the current state of air quality in the district municipality, how it has been changing over recent years.

4. SCOPE OF WORK

4.1 Project Jurisdiction

The project will encompass all the local municipalities of SDM (i.e., Fetakgomo-Tubatse, Ephraim Mokgale, Elias Motsoaledi and Makhuduthamaga). Trans-boundary matters that affect effective air quality management in district will also be taken in account in the project execution.

4.2 Project Deliverables

The performance measures will be closely monitored by LEDET in partnership with SDM. The role of the Service Provider is to assist LEDET with the project in line with the provisions of the Act, associated legislative frameworks and guidelines. The scope of services is provided for eight deliverables as outlined below:

4.2.1 Project Process Plan

The appointed service provider will carry out all the work required to develop the project process plan for emissions inventory development, air quality modeling and baseline air quality assessment. This process plan should, amongst others, include:

- A detailed description of how the appointed service provider intends to execute the project (project process plan);
- Project Initiation: A Project Initiation Documentation will be developed using appropriate project management methodology.
- Project Steering Committee will be established and A Project Initiation Meeting will be conducted;
- Stakeholder engagement plan: Key stakeholders from different sectors will be involved through a consultative process. Key engagement information will be documented and report-back on progress will be made. Public participation process will be evaluated and evaluation report will be provided; and
- Capacity building plan as part of the project.

The proposed process plan structure will be based on the appropriate methodology and must be submitted for LEDET's approval before it is presented to the Project Steering Committee (PSC) for comments.

4.2.2 Baseline characterisation of the region

The service provider will conduct a descriptive analysis on geography, district statistical features along with preparation of ground observations, satellite retrievals (both compositional and optical) and coupled model prerequisite datasets. The dataset and information needed for these activities should be gathered from Statistics South Africa (Stats SA), Earth observation satellite retrievals, dynamical land surface models and so on. The outcome of this section is important for mapping the geographical context, topography, land surface characterization and population distribution of the district. These outcomes should further be applied in the mapping of emission source areas (i.e., natural events, biomass burning activities, anthropogenic sectors, urban activities), and graphic analysis of trans-boundary transport of emissions. The appointed service provider must also carry out all the required meetings, interviews, literature reviews, data collection, data analysis, etc. required to compile the initial Baseline Assessment Report.

The baseline characterisation of the municipality will therefore generate and review information in order to compile a report that, among others:

- i. describes the geographic background of the district (climate, topography, land use, etc.);
- ii. describes meteorology and climate of the district;
- iii. population statistics of the district;
- iv. describes sources of air pollution;
- v. clearly describes the current ambient air quality in the district and compares this to national standards;
- vi. describes the cause-and-effect relationships that give rise to the significant sources of air pollution;
- vii. provides details on any future threats to air quality in the district;
- viii. identify and review recent and current air quality studies in the district;
- ix. Available capacities in the different spheres of government; and
- x. Structures that are available to encourage participatory governance and stakeholder engagements

4.2.3 Comprehensive Emission Inventory

The appointed service provider will be required to develop a detailed emission inventory for the district as well as for the domain to be used for atmospheric dispersion modelling. This district modelling domain must include entire SDM in order for the baseline to fully establish the dispersion of emissions district-wide. The service provider is expected to fill gaps, improve and enhance available data resulting in a single, internally consistent comprehensive inventory that will be available for photochemical and dispersion modeling. The emission inventory will cover all major sources, but not limited to:

- i. Industrial emissions – for this sector including section 21 listed activities;
- ii. Controlled emitters such as small boilers, asphalt plants, charcoal plant etc.;

- iii. Mining activities;
- iv. Vehicle emissions;
- v. Domestic fuel burning;
- vi. Agriculture and biogenic emissions
- vii. Biomass burning activities;
- viii. natural events;
- ix. Waste and wastewater treatment and disposal; and
- x. Other fugitive dust sources.

The service provider is expected to conduct a comparative analysis of the current emission and 2008 emission inventory and provide a narrative of circumstances that may have led to changes in air quality. Following the completion of this emission inventory, the service provider will be required to hand over all documentation, calculations, input data and output data and any other information used in the development of the inventory.

4.2.4 Ambient air quality Assessment

Using available air quality ground monitoring datasets and satellite retrievals, the district air quality data screening, evaluation, and catalogued analysis based on air quality standards will be conducted. The Service Provider will amongst other, carry out the following activities:

- i. establish observational based air quality trends;
- ii. evaluate the district air quality status in terms of national standards;
- iii. clearly describe the current ambient air quality in the area and assess this in relation to pollution sources;
- iv. identify information gaps; and
- v. analyse monitoring data and establish trends in ambient air quality since the adoption of the 2008 SDM AQMP.
- vi. The service provider is expected to make a comparison of the ambient air quality assessment between the current situation, and the 2008 situation, and provide a narrative of circumstances that may have led to changes in air quality.
- vii. Following the completion of the ambient air quality assessment, the service provider will be required to hand over all the input and output data used during the analysis.

4.2.5 Atmospheric dispersion modelling

The service provider will undertake the atmospheric dispersion modelling exercise using appropriate modelling approaches to assess the impacts of all identified emission sources and provide air pollution dispersion modelling results that characterizes the impacts on ambient air quality in both time and space. Using numerical models, satellite driven systems and empirical analysis the estimation of district emissions from various natural events, biomass burning activities and different anthropogenic sectors as well as status-quo, climatological and percentage contribution simulations and analysis will be carried out. Furthermore, the project will provide multi-correlative analysis among the load of different pollutants and key ambient meteorological parameters which plays crucial role in determining the air quality state of the district (these should include temperature, wind velocity and direction, incident solar radiation flux, relative humidity, precipitation, upper layer soil water content and boundary layer height).

The project should also provide percentage contribution simulations and analysis including zero emission simulation (for quantifying trans-boundary contributions), only natural emission simulation (for quantifying the contributions of natural emission sources along with trans-boundary); only open biomass burning emission simulation (for quantifying open biomass burning contributions); and simulation with only emissions from anthropogenic sectors (for quantifying contributions from anthropogenic sectors). Spatio-temporal maps for percentage contributions of air pollutants from trans-boundary, natural events, open biomass burning activities, and anthropogenic sectors should then be produced from these multi-simulations will be considered when categorizing the main sources or events that are responsible for exceedance from the standards, monitoring site selection, identification of district priority areas, specifying main district priority pollutants and their main sources; prioritizing air quality issues based on source, time and geography; gap analysis; labelling pollutant impact, effect frequency and severity; as well as when drafting cost-effective action plans that has both environmental and socioeconomic benefit.

The Service Provider is expected to describe the chosen modelling approaches in full and demonstrate applicability to and suitability for this project. The modelling approach will be discussed with and approved by LEDET prior to commencement of any modelling work, and will be in line with the Guideline to Air Dispersion Modelling for Air Quality Management in South Africa, published on the 14 December 2012 (Gazette No. 35981). Upon completion of the project the service provider will supply the LEDET with copies of all input data, model parameterization and post-processing files.

4.2.6 Baseline assessment and projections report

The Service Provider will be required to undertake the activities aimed at building up the Baseline Assessment Report, namely: Stakeholder mapping and analysis, Revision of the background report, Compilation of the District Emission Inventory, Ambient Air Quality Assessment, and conducting the Dispersion Modeling. In addition, the appointed service provider will undertake a further inventory development and modelling of future emissions scenarios for the district based on proposed projects with the aim of establishing potential air quality threats in the area. To achieve this, the service provider will collect, collate and analyse all available information on the future development projects that have been proposed in the district; and based on that possible emission likely to result from all activities associated with such developments will be estimated. The service provider will develop scenarios that depict changes required to meet the ambient air quality standard. Different scenarios to improve air quality in the medium and long term must be developed in consultation with the department.

4.2.7 Capacity assessment and training

The service provider must conduct a capacity assessment and provide training to relevant municipal personnel. The training will focus on, but not limited to, all output areas above-mentioned. LEDET will assign officials to participate fulltime in this process. The service provider will be required to engage and involve these personnel in all aspects of the project and provide hands-on training, mentorship and ensure effective skills transfer. As part of

skills transfer, the service provider will also be required to provide a two days training nominated Authorities responsible for further utilisation of emissions inventory development, air quality modeling and baseline air quality assessment information. A skills gap analysis should be conducted to inform the type of training required for Authorities, and all logistics for the training will be handled by the service provider.

4.2.8 Stakeholder mapping, Analysis and Engagement

Stakeholder engagement is critical for the successful development and implementation of the AQMP. This will be on-going throughout the duration of the project to ensure stakeholders comments are incorporated and addressed. The appointed service provider will conduct a stakeholder mapping and engagement exercise, i.e.:

- Identify key actors including public, private and civil society representatives
- Facilitate stakeholder engagement activities in order to create a shared understanding of the key players who can contribute to the AQMP development and implementation success,
- Provide a foundation for stakeholder communication and engagement strategy,
- Prioritize stakeholders so the appropriate amount of resources can be assigned and the right engagement strategy is applied.

This will also inform the identification of participants for consultation workshops. It is also necessary in identifying the key people/agencies/companies and general members of the public that are sources of emissions, or have capacity to invoke management strategies, or have an interest in supporting the management plan. This collective of stakeholders will take part in identifying the short-term and long-term goals of the AQMP.

4.2.9 Final Project report finalization and file handover

The Service Provider will produce a final report for LEDET and SDM that should include but not limited to:

- Summary of work completed;
- Assessment of success of project;
- Any risks, challenges, barriers, or unforeseen issues that were identified; and
- Recommendations and next steps for LEDET and SDM in furthering air quality management planning goals.

Given the above, the scope of work will include, but is not limited to, conducting research, meetings, interviews, workshop facilitation, training courses, management and administrative activities required to generate the required project deliverables and outcomes.

5. PROJECT ACTIVITIES, DURATION AND BUDGET

Specific activities to be carried out by the Service Provider in generating the above outputs must be detailed in the proposal contained in the bid. All work associated with this project will be completed within a period of seven (7) months from the date of contract acceptance or earlier. Proposals must include a work programme and implementation schedule to

ensure that project closure is achieved within this period. In preparing the financial proposal, the appointed service provider is expected to take into account the requirements and conditions of the Terms of Reference documents. The financial proposal should list all costs associated with the project. Comprehensive budget must be provided in a separate envelope inclusive of all disbursement costs, expenses and VAT. LEDET will cover the expenses relating to the work of the contracted Service Provider to a value not exceeding that agreed in the Service Provider's service level agreement. The table below details and the expected deliverables for the SDM emissions inventory development, atmospheric dispersion modeling and baseline assessment project.

Table 1: Expected Project Deliverable, associated timeframes, and payment schedule

Deliverable/Output	Timeframes	% of Project Value
Service Level Agreement	One week	
Project Inception Report laying out the work program	Two week	10%
Stakeholder Mapping and Consultation Report		
Ambient Air Quality Assessment Report	Ten weeks	30%
Comprehensive Emissions Inventory Database		
Photochemical Modeling Outputs	Ten weeks	30%
Baseline Assessment and Projections Report	Two weeks	15%
Capacity Assessment Report, Training Manuals and Capacity building Report	Two week	10%
Final Project Report and Project Close-out File Handover	One week	5%

6. REFERENCE MATERIALS

The following are the documents that need to be consulted and reviewed as reference materials, though the list below is not exhaustive:

- a) Constitution of the Republic of South Africa, 1996
- b) The National Environmental Management Act 107 of 1998;
- c) The National Environmental Management: Air Quality Act, (Act No. 39 of 2004)
- d) The National Framework for Air Quality Management in the Republic of South Africa, 2017
- e) Manual for Air Quality Management Planning in South Africa, 2012
- f) Guideline to Air Dispersion Modelling for Air Quality Management in South Africa, 2012
- g) Limpopo Provincial Air Quality Management Plan, 2024
- h) SDM Air Quality Management Plan, 2008

7. PROJECT MANAGEMENT

7.1 Project Manager (LEDET)

The Deputy Director: Environmental Quality Management will be the client project manager. As such, the contracted Service Provider will be directed by and report to the Project Manager –(LEDET).

7.2 Project Manager (Contracted Service Provider)

The successful Service Provider will nominate a member of their team with project management expertise as the project manager. This person will be responsible for managing the implementation of all the activities described in this document and delivery of all outputs contained in the accepted proposal. The project manager will be the contact person for all departmental-consultant interactions. The project manager should demonstrate an acceptable project management methodology that the bidder uses and the project should be based on a reputable project management practice.

7.3 Project Management Team

The Project Management Team (PMT) will be made up of the following team members who will make the day-to-day decisions on project implementation, (i) Director: Environmental Quality Management, (ii) Deputy Director: Environmental Quality Management, (iii) Project Manager (contracted service provider) (iv) Relevant Municipal Air Quality Officer. The PMT will meet at any required time to ensure successful implementation of part 5 and to adjudicate over reports and see if they meet the required standards and provide direction. Other members may be invited to PMT meetings as and when necessary and as agreed by the PMT.

7.4 Project Steering Committee

The successful implementation of the project will also rely heavily on efficient and effective cooperation and coordination between the regulatory authorities impacted or affected by the project. To facilitate the required intergovernmental cooperation and coordination, a Project Steering Committee (PSC) made up of members from the project partners will be established during an initial project inception meeting. The Project Management Team will form part of the PSC. The PSC will be chaired by the Project Manager (contracted service provider) with the assistance of the Project Manager (LEDET) and will meet, at least, once every two months and as and when necessary.

8. PROJECT INFORMATION MANAGEMENT

8.1 Internal Project Communication

All decisions, suggestions, recommendations, reports etc. concerning the project must be submitted in writing. In the case of emergencies, verbal decisions, suggestions, recommendations, reports, etc. must be confirmed in writing by the contracted consultant within 48 hours of the verbal communication. All required reports will be submitted to the Project Manager (LEDET) and the PMT in hard copies as per the number of PMT members.

Project progress reports are to be submitted in electronic format and signed original hard copies should be circulated to the PSC members by the project manager or his/her appointed project administrator.

8.2 External Project Communication

All communication external to the project will be carried out by either the Project Manager (LEDET) or the department's communication section. As such, all complaints, press/media queries, etc. must be referred to the Project Manager (LEDET) together with a written briefing on a possible response.

9. REPORTING

9.1 Monthly Reporting

The contracted Service Provider will submit monthly progress reports in an agreed format to the Project Manager (LEDET) within 5 days of the month under review.

9.2 Project Closure Reporting

The contracted Service Provider will submit a project closure summary and analysis report of the project within two weeks of project closure.

9.3 Public Information Requests and Other Technical Support

The contracted Service Provider will:

- Provide assistance in responding to public data information requests
- Attend public meetings and provide technical expertise regarding other air quality management planning efforts in the district as requested.
- Support LEDET's/District's staff in public presentations or other media responses
- Prepare informational materials such as pamphlets, graphs, presentations, or other media forms on air quality management planning

10. PERFORMANCE MONITORING

On signing the service level agreement, the Service Provider shall submit an implementation strategy and project plan to LEDET. Performance against the deliverables detailed in Part 5 and agreed upon project implementation plan will be closely monitored by LEDET. All meetings and public participation sessions are to have detailed attendance registers, minutes, proceedings, resolutions and copies of presentations documented.

MONITORING TOOL	FREQUENCY	EXPECTATION
Briefing Sessions	Fortnightly	Oral Feedback
Meetings (PSC)	Monthly	Written Progress Reports and

MONITORING TOOL	FREQUENCY	EXPECTATION
		Presentation
Progress Reports	At the end of each phase	Written report.
Public Participation Sessions	At the end of the Public Participation Session,	Presentation and discussion on the appropriate plan.
	Once the emissions inventory, monitoring, modelling, and resource requirement assessment reports are available.	

11. BID EVALUATION CRITERIA

The submission from the service provider will be evaluated in terms of the 80/20 point system as stipulated in the Preferential Procurement Policy Framework Act (Act 5 of 2000) and the Preferential Procurement Regulations, 2022.

The bids will be evaluated on three phases:

- Phase 1: Administrative or Pre-check Compliance
- Phase 2: Functionality Criteria
- Phase 3: Price and Specific Goals

11.1 Phase 1 – Administrative / Pre-check Compliance:

11.1.1 During this stage of the evaluation the bidders will be evaluated on whether or not they comply with the following:

- a) Complied with all the conditions of tender; and
- b) Submitted all mandatory documentation required;

11.1.2 The below administrative bidding requirements shall be complied with and required documents must be attached before consideration for further evaluation.

11.1.3 Bidders may be disqualified if not meeting the following requirements:

Criteria	Requirement
Tax compliance status	Tax registered Successful appointment depends on Tax complaint status.
Business registration	Entity must be in business (i.e. active status)
Company registration with central supplier database (CSD)	<ul style="list-style-type: none"> Bidders must be registered as a service provider on the Central Supplier Database (CSD). If not registered must proceed to complete the registration prior to submitting your proposal. Visit https://secure.csd.gov.za/ to obtain your vendor number.

Criteria	Requirement	
In the service of the state status	Bid will not be considered if shareholder or director are employed by state /government departments, municipalities, municipal entities and public entities unless such shareholder or director is in an official capacity as a director of a company listed in schedule 2 and 3 of the Public Finance Management Act.	
Tender defaulting and restriction status	Entity and directors must not be restricted	
Documents that must be submitted	Non-submission will result in disqualification	Requirement
Bidder's Disclosure – SBD 4	YES	Must be fully completed and submitted with the RFQ by the closing date and time. (Must declare if they have interests in other Companies. Refer to Paragraph 2.3 of SBD 4)
Preference Point Claim Form – SBD 6.1	NO	Must be fully completed, signed and submitted with the RFQ by the closing date and time. (Bidders must fully complete Table 1, paragraph 4.2 of SBD6.1 to claim preference points for specific goals)

11.2 Phase 2: Functionality Evaluation Criteria

11.2.1 Technical Requirements (i.e. Functional Specifications, skills and experience, references and resources):

This evaluation will be based on the responses provided in the Bidders RFQ documents, using the functionality requirements in the TERMS OF REFERENCE section. The threshold value set for qualification of a RFQ is **70 points** and all bidders who score below these points will be eliminated.

No.	Technical / Functional Criteria	Weights
1.	<p>Scope, Methodology and Approach:</p> <p>Service Providers must demonstrate an understanding of the project scope, methodology to be employed and information provided in the RFQ response document (relevance and accuracy). Furthermore, the service provider must develop and submit a detailed project plan with the quotation.</p> <p>Points allocation:</p> <ul style="list-style-type: none"> 30 points = Bidder submitted Detailed project proposal with clear action plan and demonstrates an extensive understanding of project 	30

No.	Technical / Functional Criteria	Weights
	<p>requirements.</p> <ul style="list-style-type: none"> • 20 points = Bidder's project proposal demonstrates limited understanding project requirements. • 10 points = Bidder's project proposal demonstrates poor understanding project requirements • 0 points = No submission of the project plan; 	
2.	<p>Company Track record on Air Quality Management Plan Development projects:</p> <p>Relevance of the company's core business to the scope of the bid (the portfolio of services of the bidder). The service provider must have successfully completed projects in relation to Air Quality Management Planning and impact analysis using atmospheric emissions inventory, numerical air quality modelling, ground air quality monitoring, satellite driven systems and air quality data analysis techniques.</p> <p>Bidders are required to attach to their RFQ response, reference letter/s from previous clients where similar services were rendered.</p> <p>Bidders must make sure that each reference letter entails the following but is not limited to:</p> <ul style="list-style-type: none"> • The letter head of the company providing the reference letter/s; • The contact details of the company providing the reference letters, • The signature of the recipient/client of the services; • A brief description of the project inclusive of the contract duration / period completed by the service provider. <p>NB: Reference letters received without any of the above may not be considered.</p> <p>Points allocation:</p> <ul style="list-style-type: none"> ▪ 30 points = 5 or more AQMP development projects completed ▪ 20 points = 3 – 4 AQMP development projects completed ▪ 10 points = 1 – 2 AQMP development projects completed ▪ 0 points = No submission of reference letter/s <p>NB: Reference letters indicating experience that is not relevant to above requirement will not be considered and will be allocated <u>0</u> point.</p>	30
3.	<p>Key Personnel Competence and Skills (Maximum points = 40 points):</p> <p>Service providers must provide profile i.e. Curriculum Vitae (CV) of key personnel</p>	40

No.	Technical / Functional Criteria	Weights
	<p>to provide service for the Project that are knowledgeable and have experience in air quality management.</p> <p>Capability of key personnel (profiles of key staff and persons to be assigned to the project).</p> <p>NB: Please ensure that profiles of the following key resources form part of the submission:</p> <ul style="list-style-type: none"> ▪ Project Manager/Team Leader ▪ Environmental Management Specialist(s) <p>The above key personnel must be supported by other project team members to ensure timely completion of project activities.</p> <p>3.1. Project Manager/Leader (20 Points)</p> <p>The appointed project manager must have qualification in environmental science/management or related field, at least 5 years' experience in the air quality management sector having undertaken a variety of air quality management functions such as ambient air quality monitoring, dispersion modelling, and atmospheric emission inventory development and reporting, atmospheric emissions licensing process. The project manager must have experience in leading multidisciplinary teams and coordinating with stakeholders in the public and private sectors. The project manager must also demonstrate excellent analytical, interpersonal and problem-solving skills, ability to bring alternative thinking to an organisation.</p> <p>Bidders must submit a CV of the appointed project manager with certified copies of qualification in Environmental Science/Management/Health/Engineering or Atmospheric Science. A summary of successful projects completed as project manager must be included in the CV.</p> <p>3.1.1. Projects completed as Project Manager/Leader – Points allocation (10 points):</p> <ul style="list-style-type: none"> ▪ 10 points = 5 or more Air quality management projects successfully completed ▪ 5 points = 3 - 4 Air quality management projects successfully completed ▪ 2 points = 1 - 2 Air quality management projects successfully completed ▪ 0 points = no Air quality management projects successfully completed or no submission 	

No.	Technical / Functional Criteria	Weights
	<p>3.1.2. Academic Qualifications of Project Manager/Leader – Points allocation (10 points):</p> <ul style="list-style-type: none"> ▪ 10 points = Master's degree or above in Environmental Science/Management/Health, Chemical Engineering or Atmospheric Science ▪ 5 points = Bachelor's Degree or Honours in environmental science/management/health, Chemical Engineering or Atmospheric Science ▪ 2 points = National Certificate or Diploma in Environmental Science/Management/Health, Chemical Engineering or Atmospheric Science ▪ 0 points = No Qualification or No submission <p>3.2 Project Team Members/Experts (20 points)</p> <p>General professional experience and competencies of the team members to be deployed:</p> <ul style="list-style-type: none"> • Key team members (Environmental Management Specialist/s) shall have relevant qualifications and experience in their area of expertise. • Experience working with multidisciplinary teams of experts and coordinating with stakeholders in the public and private sectors. • A good working knowledge of international best practices in environmental management <p>The bidders must deploy competent Environmental Management Specialist/s with experience and competencies as outlined above. The bidder must submit a CV of the appointed Environmental Management specialist(s) with certified copies of i) Qualification in Environmental Management/Science or Equivalent</p> <p>3.2.1 Experience of Environmental Management Specialist/s (10 points):</p> <ul style="list-style-type: none"> ▪ 10 Points = Relevant experience of 5 years and above ▪ 5 Points = Relevant experience of 3 - 4 years ▪ 2 Points = Relevant experience of 1-2 years 	

No.	Technical / Functional Criteria	Weights
	<p>3.2.2 Academic Qualifications of Environmental Management Specialist/s (10 points):</p> <ul style="list-style-type: none"> ▪ 10 Points = Master's degree or above in Environmental Management or equivalent ▪ 5 Points = Bachelor's Degree or Honours in Environmental Management or equivalent ▪ 2 Point = National Certificate or Diploma in Environmental Management or equivalent ▪ 0 Points = No Qualification or No submission 	
	TOTAL	100
	Achievement of a minimum of 70 points is required for bidders to be considered for the next evaluation phase.	

11.3 Phase 3: Price and Preferential Point Scoring System

11.3.1 80/20 Preference point system [(for acquisition of goods or services for a Rand value up to R50 million (all applicable taxes included)]

The following formula must be used to calculate the points for price of tenders/procurement with the rand value up to R50 000 000.00, inclusive of all applicable taxes:

$$Ps = 80 \left(1 - \frac{Pt - Pmin}{Pmin} \right)$$

Where:

Ps = Points scored for price of bid under consideration

Pt = Rand value of tender consideration

Pmin = Rand value of lowest acceptable tender

- (a) A maximum of **20 points** will be awarded in accordance with the table below.
- (b) The points scored by a tenderer in respect of the specific goals above must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- (c) Only the tender with the highest number of points scored may be selected for an award.

11.3.2 Preferential Points for Specific Contract Participation Goals:

NO.	PREFERENTIAL GOALS	POINTS	MEANS OF VERIFICATION
HDI'S			
1	Black People	6	CSD report and/or copy of company CIPC registration certificate
2	Women	4	CSD report
3	Persons with Disability	2	Original or Certified Copy of certificate/confirmation of Disability Status
SPECIFIC GOALS			
1	Youth	3	CSD report
2	Micro, Small and Medium Enterprises (MSMEs)	2	Certified copy of valid UIF registration providing number of company's employees.
3	Cooperatives	1	CSD report and/or copy of company CIPC registration certificate
4	Enterprises located in Limpopo Province	2	Recent Municipal account <u>or</u> Local Authority Letter for confirmation of Local Address (<i>not older than 3 months</i>) or Lease Agreement
TOTAL		20	

11.3.3 Bidders are required to furnish documentary proof to the satisfaction of the Department that the claims for above preferential goals are correct.

11.3.4 Non-submission of the documentary proof will lead to a zero (0) points on specific/preference goals.

11.3.5 Points will be allocated based on the percentage of ownership per goal.

11.3.6 Bidders are required furnish documentary proof to the satisfaction of the Department that the claims for preferential goals are correct:

11.3.7 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 forward the matter for criminal prosecution, if deemed necessary

11.4 Definitions

“Historically Disadvantaged Individuals” means a South African citizen –

- (1) Who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No. 110 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993) (“the Interim Constitution”); and/or
- (2) Who is a female; and/or
- (3) Who has a disability

Provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution, deemed not to be an HDI.

“Specific goals” means specific goals as contemplated in section 2(1)(d) of the Act which may include contract with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette no. 16085 dated 23 November 1994.

“Black People” is a generic term which means Africans, Coloureds and Indians as described in the Broad-Based Black Economic Empowerment Act, Act No.53 of 1993.

“Youth” has the meaning assigned to it in section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008)

“Persons with Disability” - has the meaning assigned to it in section 1 of the Employment Equity Act, 1998 (Act No. 55 of 1998)

“Micro, Small, or Medium Enterprises (MSMEs)” bears the same meaning assigned to this expression in the National Small Enterprise Amendment Act 21 of 2024

“Price” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts

“Rand value” means the total estimated value of a contract in Rand, calculated at the time of the tender invitation.

“Lowest acceptable tender” means any tender that complies with all specifications and conditions of tender and that has the lowest price compared to other tenders.

“Highest acceptable tender” means any tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders.

“Cooperatives” means a co-operative registered in terms of section 7 of the Cooperatives Act, 2005 (Act No. 14 of 2005).

“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

“Functionality” means the measurement according to predetermined norms of a service or commodity designed to be practical and useful, working or operating, taking into account quality, viability, skills, experience and durability of a service or commodity

12. BID AWARD AND CONTRACT CONDITIONS

- 12.1 Any proposal submitted by a consortium or joint venture of two or more firms must be accompanied by the consortium formation document or joint venture agreement, stating the name of the joint venture. Each member of the consortia and joint venture will be held jointly and severally liable for the performance of the consortium or joint venture.
- 12.2 Foreign firms providing proposals must be familiar with local conditions and laws and consider them in preparing their proposals.
- 12.3 Firms may not contact the Department on any matter pertaining to their bid from the time when bids are submitted to the time the contract is awarded. Any effort by a bidder to influence bid evaluation, bid comparisons or bid award decisions in any manner, may result in rejection of the bid concerned.
- 12.4 LEDET reserves the right to award the bid in whole, partially or not to award at all.
- 12.5 The department reserves the right to award the bid to a bidder who did not score the highest points.
- 12.6 The Department (LEDET) may, prior to the awarding of an application, cancel or abandon the process:
 - a) Due to changed circumstance, there is no longer a need for the services tendered for;
 - b) If funds are no longer available to cover the total envisaged expenditure;
 - c) If no acceptable tenders are received;
 - d) If there is a material irregularity in the tender process
- 12.7 No bid may be awarded to any bidder whose tax matters have not been declared by SARS to be in order (i.e. tax compliance), or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.
- 12.8 The department reserves the right to communicate with the shortlisted bidders as and when necessary.
- 12.9 The contract period will be from the commencement date of the contract.
- 12.10 The department is not obliged to accept or consider any bid in full or in part or any responses or submissions in relation thereto and may reject any bid.

- 12.11 The department reserves the right to award the bid to one or more service providers, wholly or in part or not to award.
- 12.12 The appointment of the successful bidder shall be subject to the conclusion of a Service Level Agreement (SLA) between the department and the successful bidder governing all rights and obligations related to the required services.
- 12.13 The contract shall be concluded between LEDET and the successful service provider(s).
- 12.14 The contract period will be in terms of the acceptance letter.
- 12.15 Bidders shall be notified about the decision of the Department by means of publication in the Provincial Bid Bulletin, Department's website and National Treasury e-Tender Portal.
- 12.16 Awarding of the bid shall be subject to the Service Provider(s) acceptance of National Treasury General Conditions of Contract (GCC).
- 12.17 Only those bidders who have the necessary experience and skills are eligible to submit bids.
- 12.18 The Department will check with National Treasury's database prior to awarding to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector.
- 12.19 The bidder or any of its directors has not:
- a) Listed on the register of bid defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the state.
 - b) Abused the employers supply chain management system
 - c) Failed to perform on any previous contract and has been given a written notice in this effect.
 - d) All information and details must be legible/ readable.
- 12.20 If the bidder fails to fulfil the contract when called upon to do so, the Department may, without prejudice to its other rights, withdraw or cancel the contract that may have been entered into between the bidder and the Department.
- 12.21 Each communication between the Department and a Bidder shall be to or from the Department only, and in a form that can be read, copied and recorded. Writing shall be in the English language. The Department shall not take any responsibility for non-receipt of communications from or by a Bidder. The name and contact details of the Department are stated.
- 12.22 Accept that the employer will not compensate the Bidder for any costs incurred in the preparation and submission of a Bid offer, including the costs to demonstrate that aspects of the offer satisfy requirements.

12.23 The Department may accept or reject any variation, deviation, bid offer or alternative Bid offer, and may cancel the Bid process and reject all Bid offers at any time before the formation of a contract. The employer shall not accept or incur any liability to a Bidder for such cancellation and rejection but will give written reasons for such action upon written request to do so.

12.24 The provisions of the general conditions of contract will be applicable to this bid.

13. CONTRACT MANAGEMENT

The Project Manager (LEDET) will monitor the implementation of part 5 (above) and adjudicate over reports and see if they meet the required standards and provide direction at any required time. The successful Bidder will be expected to appoint/nominate a Project Manager (contracted Service Provider). The Project Manager (contracted Service Provider) shall take responsibility for service delivery and will be the contact person between LEDET and the company.

14. PRICES

- a) All services pricing should be inclusive of all taxes and payment shall be made in South African Rand;
- b) The total amount should be carried out on Annexure 1.

15. NEGOTIATIONS

The department reserves the right to negotiate price with recommendable bidders.

16. BRIEFING SESSION

There will be no briefing session for this RFQ.

17. ADDRESS AND DEADLINE FOR SUBMISSION OF RFQ RESPONSES

Bid response documents may be deposited in the **Quotation Box (Blue Box)** situated at 19 biccard street, polokwane on or before **10 June 2025 by 11H00**

18. PAYMENT TERMS

Payments shall be done in accordance with the Public Finance Management Act, treasury regulations and all other related and applicable acts. LEDET undertakes to pay out in full or as per deliverables within 30 (thirty) days all valid claims for work done to its satisfaction upon presentation of a substantiated claim and the required reports stipulated in special

conditions. No payment will be made where there is outstanding information/work submitted by the Service Provider/s.

19. COPYRIGHTS, PATENTS AND OTHER PROPRIETARY RIGHTS

LEDET will be entitled to all copyright, patent and other proprietary rights and trademarks with regards to the products, information, documents and other materials which bear a direct relation to or are produced or prepared or collected in the course of the execution of the project.

20. CONFIDENTIALITY

- a) Bids submitted will not be revealed to any other Bidders and will be treated as contractually binding
- b) All information pertaining to LEDET obtained by the Bidder as a result of participation in this Request for Bid is confidential and must not be disclosed without written authorization from LEDET; and
- c) The successful Bidder will be expected to sign a service level agreement with the LEDET.

21. VALIDITY PERIOD

All bids submitted by the bidders must be valid for a period of **150 days** from the closing date.

22. CONTRACT DURATION

The contract arising from this RFQ shall be valid for a period of twelve (12) months.

23. TECHNICAL ENQUIRIES

Should you require any further information in this regard, please do not hesitate to contact:

Mrs. Thivhafuni PO

Deputy Director: Environmental Quality Management

Tel: (015) 293 7022

Cell: 079 499 4428

Email: ThivhafuniPO@ledet.gov.za

ANNEXURE: 2

Pricing Schedule

DESCRIPTION	TOTAL PRICE (VAT INCLUSIVE)
Atmospheric Emissions Inventory Development, Air Quality Modeling and Baseline Air Quality Assessment for Sekhukhune District Municipality	

ANNEXURE: 3

Bidder's Disclosure – SBD 4

ANNEXURE: 4

Preference Point Claim Form – SBD 6.1

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

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:

.....

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.

- 2.3 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,(name)..... the undersigned, 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.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National

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.

SBD4

Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

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

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

.....
Signature Date

.....
Position Name of bidder

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

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

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

1. GENERAL CONDITIONS

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

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

1.2 To be completed by the organ of state

(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:

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

Where

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

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

3.2.1. POINTS AWARDED FOR PRICE

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

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

Where

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

4. POINTS AWARDED FOR SPECIFIC GOALS

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

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

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

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

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

The specific goals allocated points in terms of this tender		Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)
PREFERENTIAL GOALS			
HDI'S			
1	Black People	4	
2	Women	3	
3	Persons with Disability	2	
SPECIFIC GOALS			
1	Youth	2	
2	Small, Medium and Micro Enterprises (SMMEs)	2	
3	Co-operatives	2	
4	Enterprise Located in Limpopo Province	3	
5	Military Veterans	2	
TOTAL		20	

Tenderers are required to furnish below documentary proof to the satisfaction of the Department that the claims for preferential goals are correct:-

	PREFERENTIAL GOALS	MEANS OF VERIFICATION
	HDI'S	
1	Black People	CSD report or certified copy of company CIPC registration certificate

2	Women	CSD report or certified copy of company CIPC registration certificate
3	Persons with Disability	Original or certified copy of certificate/confirmation of Disability Status
SPECIFIC GOALS		
1	Youth	CSD report or certified copy of company CIPC registration certificate
2	Small, Medium and Micro Enterprises (SMMEs)	Certified copy of valid UIF registration, providing number of company's employees
3	Co-operatives	CSD report or certified copy of company CIPC registration certificate
4	Enterprise Located in Limpopo Province	Recent Municipal account or Local Authority Letter for confirmation of Local Address (not older than 3 months) or Lease Agreement not less than six (6) months
5	Military Veterans	Certified copy of Military Veteran certificate issued by the Department of Military Veterans (DMV)

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

.....

Date

.....

Position

.....

Name of bidder

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.

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General Conditions of Contract

1. Definitions

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

RSA.

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

obligations of the supplier covered under the contract.

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

2. Application

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

3. General

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

4. Standards

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

5. Use of contract documents and information; inspection.

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

6. Patent rights

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

7. Performance security

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

8. Inspections, tests and analyses

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

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

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

9. Packing

- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

10. Delivery and documents

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

11. Insurance

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

12. Transportation

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

13. Incidental services

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

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

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

14. Spare parts

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

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

15. Warranty

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

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

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

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

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

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

16. Payment

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

17. Prices

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

18. Contract amendments

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

19. Assignment

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

20. Subcontracts

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

21. Delays in the supplier's performance

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

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

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

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

22. Penalties

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

23. Termination for default

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

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

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

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

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

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

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

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

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

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

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

24. Anti-dumping and countervailing duties and rights

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

may be due to him

25. Force Majeure

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

26. Termination for insolvency

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

27. Settlement of Disputes

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

28. Limitation of liability

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

		(b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.
29. Governing language	29.1	The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
30. Applicable law	30.1	The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
31. Notices	31.1	Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice
	31.2	The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.
32. Taxes and duties	32.1	A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
	32.2	A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
	32.3	No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.
33. National Industrial Participation (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	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.