


# SPECIAL CONDITIONS OF CONTRACT

# RT63

## SUPPLY AND DELIVERY COVID-19 TEST KITS TO THE STATE FOR THE PERIOD OF TWENTY-FOUR (24) MONTHS

## CLOSING DATE AND TIME OF BID

**11 OCTOBER 2022 AT 11H00**

## NON-COMPULSORY BRIEFING SESSION TO BE HELD ON

**21 SEPTEMBER 2022**

## BID VALIDITY PERIOD: 180 DAYS

**NATIONAL TREASURY**

**TRANSVERSAL CONTRACTING**

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## LIST OF ABBREVIATIONS

| | |
|---|---|
| BAC | Bid Adjudication Committee |
| BEC | Bid Evaluation Committee |
| BQRC | Bid Quality Review Committee |
| B-BBEE | Broad-Based Black Economic Empowerment |
| CPA | Contract Price Adjustment |
| CPI | Consumer Price Index |
| CSD | Central Supplier Database |
| The DTIC | The Department of Trade, Industry and Competition |
| EME | Exempted Micro Enterprise |
| IAF | International Accreditation Forum |
| ILAC | International Laboratory Accreditation Cooperation |
| ISO | International Organization for Standardization |
| M&E | Monitoring and Evaluation |
| NAAT | Nucleic Acid Amplification Test |
| NDoH | National Department of Health |
| NICD | National Institution of Communicable Diseases |
| NT | National Treasury |
| OCPO | Office of the Chief Procurement Office |
| PCR Testing | Polymerase Chain Reaction |
| PDoH | Provincial Department of Health |
| PDF | Portable Document Format |
| PPI | Producer Price Index |
| PPR 2017 | Preferential Procurement Regulation 2017 |
| QA | Quality Assurance |
| QMS | Quality Management System |
| QSE | Qualifying Small Enterprise |
| RoE | Rate of Exchange |
| RSA | Republic of South Africa |
| SLA | Service Level Agreement |
| SABS | South African Bureau of Standards |
| SAHPRA | South African Health Products Regulation Association |
| SANAS | South African National Accreditation System |
| SARS | South African Revenue Service |
| SSA | State Security Agency |

| | |
|---|---|
| SCC | Special Conditions of Contract |
| SCM | Supply Chain Management |
| STATS SA | Statistics South Africa |
| SBD | Standard Bidding Document |
| TCD | Transversal Contract Documents |
| TC | Transversal Contracts |
| TIC | Tender Information Centre |
| USB | Universal Serial Bus |
| VAT | Value Added Tax |
| WHO | World Health Organization |
| WPG | Working Practice Guidelines |

## LIST OF ANNEXURES

i. Standard Bidding documents (SBD)
ii. Transversal Contracting Documents (TCD)
iii. Annexure A: Technical Specification
iv. Annexure B: Pricing Schedule
v. General Condition of Contract

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## Table 1: Returnable Bid Document Checklist

| # | Document Name | Included in the published bid document? | To be returned by bidder |
|---|---|---|---|
| **LEGISLATIVE DOCUMENTS REQUIREMENTS** | | | |
| 1 | SBD 1: Invitation to Bid | Yes | Yes |
| 2 | Appointment of Authority | No | Yes |
| 3 | Central Supplier Database (CSD) Report | No | Yes |
| 4 | SBD 4 Declaration of Interest | Yes | Yes |
| 5 | SBD 5 The National Industrial Participation Programme | Yes | Yes |
| 6 | SBD 6.1 Preference Points Claim Form | Yes | Yes |
| 7 | B-BBEE certificate or original sworn affidavit | No | Yes |
| 8 | SBD 8 Declaration of Bidder's Past SCM Practises | Yes | Yes |
| 9 | SBD 9 Certificate of Independent Bid Determination | Yes | Yes |
| **PHASE 1: PRE-QUALIFICATION DOCUMENTS REQUIREMENTS** | | | |
| 11 | B-BBEE certificate or original sworn affidavit or CIPC certificate | No | Yes |
| **PHASE 2: MANDATORY DOCUMENTS REQUIREMENTS** | | | |
| 12 | SAHPRA Licence | No | Yes |
| 13 | Annexure A - Pricing Schedule | Yes | Yes |
| **PHASE 3: TECHNICAL REQUIREMENST** | | | |
| 14 | Annexure A - Technical Specification | Yes | Yes |
| 15 | Quality Assurance Certificate | No | Yes |
| 16 | TCD 13 Authorisation Declaration | Yes | Yes |
| 17 | TCD 13.1 List of services offered | Yes | Yes |
| 18 | TCD 13.2 Letter of undertaking template | Yes | Yes |
| **PHASE 4: PRICE AND B-BBEE** | | | |
| 19 | Cost Breakdown | | |
| **OTHER DOCUMENTS** | | | |
| 19 | Company Profile | No | Yes |
| 20 | CIPC Company Registration Document | No | Yes |
| 21 | Special Conditions of Contract | Yes | Yes |
| 22 | General Condition of Contract | Yes | Yes |
| 23 | TCD 6 – Response Field | Yes | No |
| 24 | Read me – CSD Fact sheet and leaflet | Yes | No |

**#NB 1:**[1] Bidders are required to return these documents as per above sequence. Table 1 is provided as guidance to assist bidders with documents that must be returned with the bid. The list is not exhaustive, and it is the responsibility of the bidder to provide all required documents as per the provision of each clause in this bid

## SECTION A: INTRODUCTION AND TERMS OF REFERENCE

### 1. DESCRIPTION AND FORMAT OF THE BID

1.1. This bid is for the supply and delivery of Covid-19 rapid test kits to the state for the period of 24 months

1.2. This bid document is divided as follows:

| | | | |
|---|---|---|---|
| 1.2.1. | Section A | : | Introduction and Terms of Reference |
| 1.2.2. | Section B | : | Conditions of Bid |
| 1.2.2.1. | Part 1 | : | Evaluation criteria consisting of 4 phases. |
| 1.2.2.2. | Part 2 | : | Additional bid requirements |
| 1.2.3. | Section C | : | Conditions of Contract |

### 2. LEGISLATIVE AND REGULATORY FRAMEWORK

2.1. This bid and all contracts emanating there from will be subject to the General Conditions of Contract issued in accordance with Treasury Regulation 16A published in terms of the Public Finance Management Act, 1999 (Act 1 of 1999) as well as the Preferential Procurement Policy Framework Act 2000 (PPPFA) with its latest 2017 Regulations.

2.2. The Special Conditions of Contract (SCC) are supplementary to that of General Conditions of Contract (GCC). However, where the Special Conditions of Contract conflict with the General Conditions of Contract, the Special Conditions of Contract prevail.

2.3. The requirements in this bid are in line with the National Department of Health (NDoH) Guidelines and World Health Organizations (WHO) Guidelines. Where, however, the NDoH and WHO guidelines are in conflict, NDoH guidelines prevail.

2.4. **Tax Compliance Requirements**

2.3.1 It is a condition of this bid that the tax matters of the successful bidder(s) are in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.

2.3.2 The Tax Compliance status requirements are also applicable to potential foreign bidders / individuals who wish to submit bids.

2.3.3 It is a requirement that bidders grant a written confirmation when submitting this bid response that SARS may on an on-going basis during the tenure of the contract disclose the bidder's tax compliance status and by submitting this bid such confirmation is deemed to have been granted.

2.3.4 Bidders are required to be registered on the Central Supplier Database (CSD) and NT shall verify the bidder's tax compliance status through the CSD or through SARS.

2.3.5 Where Consortia / Joint Ventures / Sub-Contractors are involved, each party must be registered on the CSD, and their tax compliance status will be verified through the CSD or through SARS.

2.5. **Standard Bidding Documents**

2.4.1 The following standard bidding documents must be submitted with the bid at the closing date and time of bid.

a. SBD 1 – Invitation to bid
b. SBD 4 – Declaration of interest
c. SBD 6.1 – Preference Points Claimed (BBBEE)
d. SBD 8 – Declaration of Past SCM Practices
e. SBD 9– Certificate of Independent Bid Determination

## 3. DURATION OF TRANSVERSAL CONTRACT

3.1. The transversal contract shall be for a period of 24 months.

## 4. BID INFORMATION SESSION

4.1. A Virtual non-compulsory information session will be scheduled as follows:

Date: : 21 September 2022
Time : 11h00 -12h00
Venue: Virtual Meeting (Microsoft teams)

4.2. The link to access the briefing session is Click here to join the meeting

4.3. The link to the briefing session is also published on National Treasury's website and bidders can be able to access the meeting http://www.treasury.gov.za/divisions/ocpo/ostb/CurrentTenders.aspx

4.4. The briefing session is not compulsory but will provide bidders with an opportunity to obtain clarity on certain aspects of the procurement process as set out in this bid document.

4.5. The National Treasury reserves the right to answer questions at the briefing session and/or to respond formally after the briefing session.

## 5. TERMS OF REFERENCE:

5.1. TECHNICAL SPECIFICATION

5.1.1. Bidders must be able supply and deliver the rapid Covid-19 test kits to the state for the period of 24 months. The detailed technical specifications are as per the attached **Annexure A – Detailed Technical Specification**.

5.1.2. The bid consists of 1 item as follows:

**Table 2 - Item Category**

| # | CATEGORY NAME | # OF ITEMS |
|---|---|---|
| 1. | **Rapid antigen diagnostic test kit** | 1 |

## SECTION B

## CONDITIONS OF BID

## 6. PART 1: EVALUATION CRITERIA

The bid shall be evaluated in four (4) phases as per the table below:

**Table 3: Evaluation Criteria**

| Phase 1 | Phase 2 | Phase 5 | Phase 6 |
|---|---|---|---|
| Pre-Qualification Criteria | Mandatory and other bid requirements | Technical Compliance | Price and B-BBEE |
| Bidders will be assessed if they are B-BBEE Level 1 to 5 Compliant | Compliance with mandatory and other bid requirements | Compliance to the item technical specifications | Bids evaluated in terms of the 90/10 preference system |

### 6.1. PHASE I: PRE- QUALIFYING CRITERIA FOR PREFERENTIAL PROCUREMENT

6.1.1. Only bidders having a stipulated minimum B-BBEE status level contributor from **1 – 5** may respond to this bid. In this regard, bidders must submit proof of B-BBEE level status verification documents. Proof includes the following documents:

6.1.1.1. Valid B-BBEE certificate (electronically received document must be submitted via USB) OR originally certified copy of a valid B-BBEE certificate, OR

6.1.1.2. A sworn affidavit originally signed by the EME representative and originally attested by Commissioner of oath.

6.1.1.3. A CIPC B-BBEE certificate

6.1.2. A trust, consortium, or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE status level verification certificate.

6.1.3. Public entities and tertiary institutions must also submit their B-BBEE certificate

6.1.4. Non-compliance with the requirement for pre-qualification (B-BBEE status level 1-5) will invalidate the bid.

## 6.2. PHASE II: MANDATORY REQUIREMENTS

Bidders' must submit all required documents indicated hereunder with the bid documents at the closing date and time of the bid. During this evaluation phase, the bidder's responses will be evaluated based on the documents submitted under mandatory requirements. Bidders who fail to comply with any of the mandatory criteria will be disqualified.

### 6.2.1. South African Health Products Regulatory Authority (SAHPRA): Medical Devices and In Vitro Diagnostic Regulation Licence

6.2.1.1. Bidders must submit a valid Medical Device Establishment (Manufacturers, distributors and or wholesalers) license issued by the South African Health Products Regulatory Authority (SAHPRA) as per the Medical Devices and In Vitro Diagnostic Regulations referred to in Section 22C (1) (b) of the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965) as amended at the closing date and time of bid.

6.2.1.2. Only manufacturers/ distributors/ or wholesalers approved by SAHPRA to manufacturer or import the Covid-19 test kits may submit the bid.

6.2.1.3. The medical device and IVD licence to manufacture or to import must indicate the relevant Covid-19 test kits approved by SAHPRA. The bidder must be the holder of the licence.

### 6.2.2. Pricing Structure and Schedule

6.2.2.1. The pricing schedule (see Annexure B) provided in this bid forms an integral part of the bid document and bidders must ensure that it is completed without changing the structure thereof. All pricing offered must be on a national level.

6.2.2.2. Bidders are required to complete a mandatory Pricing Schedule Annexure B as a response on how much the items offered will be charged. No submission of the Pricing Schedule will invalidate the bid response.

6.2.2.3. Due diligence on market related pricing reasonability will be conducted. The State Reserve the right to disqualify bid offers in which there is no reasonable doubt that the bid offered is under quoted. In this case, the bidder will be required to submit supporting documentations.

6.2.2.4. Conditional discounts offered will not be taken into consideration during evaluation.

6.2.2.5. Prices submitted for in this bid must be filled in on the field provided on the pricing schedule supplied with the bid. Price structures that do not comply with this requirement may invalidate the bid.

## 6.3. PHASE III: TECHNICAL EVALUATION

### 6.3.1. Compliance to Technical Specification

6.3.1.1. Item offered must comply with technical specification as stated in the bid document. The technical specification as per the pricing schedule is a summary description and the attached **Annexure A – Technical Specification** is the detailed technical specification.

6.3.1.2. Valid SAHPRA issued Medical Device Establishment license listing the relevant Covid-19 Antigen test kit/s as approved by SAHPRA and the bidder as the holder of this Medical Device Establishment License.

### 6.3.2. Quality Assurance Certificate

6.3.2.1. Bidders must submit at the closing date and time of bid, valid quality assurance certificate ISO 13485 to confirm compliance. The holder of the certificate must be the original manufacturer of the product. Failure to submit this document will invalidate your bid for the relevant product.

### 6.3.3. Authorisation Declaration

6.3.3.1. All bidders must complete the "Authorisation Declaration" (TCD 13 and TCD 13.1) in full for all relevant goods or services they are offering, sign it and submit it together with the bid response at the closing date and time of the bid invitation.

6.3.3.2. Any bidder who is not the original manufacture and is sourcing goods from a third party must submit a valid Third-Party Undertaking (template provided as TCD 13.2) in full for all relevant goods. Only a letter of undertaking from the **Original Product Manufacturer** will be considered. The letter of undertaking must include but not limited to the following:

6.3.3.3. The letter of undertaking must include but not limited to the following:

a. List of items indicating, item description and brand/model name and or number.
b. Letter must be on the manufacturer's or third party's letter head, dated and signed.
c. Have contact person's name, physical address, telephone, and email details.
d. All information on the letter must be in English.

6.3.3.4. The State reserves the right to verify any information supplied by the bidder in the Authorisation Declaration and its Annexures and should the information be found to be false or incorrect, the State will exercise any of the remedies available to it in terms of this bid documents and or disqualify the bid.

6.3.3.5. The bidder must ensure that all financial and supply arrangements for goods or services have been mutually agreed upon between the bidder and the third party. No agreement between the bidder and the third party will be binding to the State.

## 5.3 PHASE IV: PRICE AND B-BBEE (90/10 CRITERIA)

### 5.4.1 Responsive Bids

5.4.1.1 Bidders are required to submit responsive bids by completing all pricing and item information on the provided pricing schedule (Annexure B) for the individual items and all required forms. Non-submission of the pricing schedule (Annexure B) will invalidate the bid response.

### 5.4.2 Applicable Taxes

All bid prices must be inclusive of all applicable taxes. Failure to comply with this condition will invalidate the bid.

### 5.4.3 Value Added Tax

All bid prices must be inclusive of fifteen percent (15%) Value Added Tax. Failure to comply with this condition may invalidate the bid.

### 5.4.4 Pricing Structure

5.4.4.1 Bidders are required to submit their price offers in the template provided for Annexure A: Pricing Schedule. The Pricing Schedule must be submitted in two forms, as hardcopy which must be included in the bid document and in an excel spreadsheet saved in a USB/memory stick at the closing date and time of bid. Both the hard copy and the excel version must be the same (replica).

5.4.4.2 The hardcopy version of the pricing schedule will be the legal document.

5.4.4.3 The electronic pricing schedule (Annexure A) must not be converted into PDF but must be submitted in an excel format and saved into a USB.

5.4.4.4 The pricing schedule provided in this bid forms an integral part of the bid document and bidders must ensure that it is completed without changing the structure thereof. The prices quoted must be inclusive of all applicable taxes. The bid price offered for service is deemed to be as advertised in the item specification.

5.4.4.5 Price structures that do not comply with the requirements of the above paragraph may invalidate the bid.

### 5.4.5 Cost Breakdown

5.4.5.1 Bidders are requested to submit the cost breakdown of their pricing for each item offered as per **Annexure C**. Should the cost breakdown be the same for all items on the bid response, the bidder must indicate clearly in the bid response. Bidders will not be allowed to change the cost breakdown of price during the tenure of the transversal contract.

5.4.5.2 Bidders should itemise the cost of each item into various components which are cost-drivers. The cost needs to be broken down into direct and indirect costs. Each cost driver should be assigned a Rand value. The Rand value of the cost drivers should be expressed as a percentage of the total cost.

### 5.4.6 Historical Exchange Rates (TCD 14)

5.4.6.1 In terms of cost price adjustment, bidders should make use of any relevant currency for the items offered by calculating the average for the period **1 March 2022 to 30 August 2022** using the Reserve Bank published rates for the specific currency. Bidders are to visit https://www.resbank.co.za/ to obtain the relevant rates. Reference to **TCD 14** on the procedure to download historical exchange rates from the Reserve Bank website for instructions.

### 5.4.7 Preferential Point System

5.4.7.1 In terms of Regulation 7 of the Preferential Procurement Regulations pertaining to the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000), responsive bids will be adjudicated by the State on the 90/10 preference point system in terms of which points are awarded to bidders based on:

i. The bid price (Maximum of 90 points)
ii. B-BBEE status level of contributor (maximum 10 points)

5.4.7.2 The following formula will be used to calculate the points for price:

$$Ps = 90\left(1 - \frac{Pt - P\min}{P\min}\right)$$

Where:

Ps = Points scored for comparative price of bid under consideration

Pt = Comparative price of bid under consideration

Pmin = Comparative price of lowest acceptable bid

5.4.7.3 A maximum of 10 points may be allocated to a bidder for attaining their B-BBEE status level of contributor in accordance with the table below:

**Table 4: Preference Point System**

| B-BBEE Status Level of Contributor | Number of Points |
|---|---|
| 1 | 10 |
| 2 | 9 |
| 3 | 6 |
| 4 | 5 |
| 5 | 4 |
| 6 | 3 |
| 7 | 2 |
| 8 | 1 |
| Non-compliant contributor | 0 |

5.4.7.4 Bidders are required to complete the preference claim form SBD 6.1, and submit their original and valid B-BBEE status level verification certificate or a certified copy thereof or a sworn affidavit at the closing date and time of the bid in order to claim the B-BBEE status level point.

5.4.7.5 The points scored by a bidder in respect of the level of B-BBEE contribution will be added to the points scored for price.

5.4.7.6 Only bidders who have completed and signed the declaration part of the preference claim form and who have submitted a B-BBEE status level certificate issued by an accredited verification agency or a sworn affidavit will be considered for preference points.

5.4.7.7 The State may, before a bid is adjudicated or at any time, require a bidder to substantiate claims it has made with regard to preference.

5.4.7.8 The points scored will be rounded off to the nearest two (2) decimals.

5.4.7.9 In the event that two (2) or more bids have scored equal total points, the award will be to the bidder scoring the highest number of preference points for B-BBEE.

5.4.7.10 However, when functionality is part of the evaluation process and two (2) or more bidders have scored equal points including equal preference points for B-BBEE, the award will be to the bidder scoring the highest for functionality.

5.4.7.11 Should two (2) or more bids be equal in all respects, the award shall be decided by the drawing of lots.

5.4.7.12 A contract may, on reasonable and justifiable grounds, be awarded to a bid that did not score the highest number of points.

## 6 RECOMMENDATION AND APPOINTMENT OF A PANEL OF BIDDERS

6.1 The Bid Evaluation Committee will recommend a preferred responsive bidder based on the evaluation criteria stipulated above.

6.2 The award of the Contract is subject to meeting all the requirements of the bid.

**6.3 Multiple Award**

6.3.1 This bid will be awarded on a multiple award for the same line item to more than one supplier to address high volume requirements, security of supply and accurate verification of successive results. Due diligence will be applied to ensure that pricing is affordable, market related and aligned to end-user requirements.

6.3.2 The maximum number of bidders to be awarded will be at the discretion of the evaluation committee to address the requirements above.

6.3.3 The same brand may therefore not be awarded to more than one bidder for the same line item.

6.3.4 Where two and more bidders have the same ownership/directorship or the family related, the next highest scoring company sharing the same ownership/directorship may not be allocated any quantities or may share the allocation of quantities even if the brands differ.

6.3.5 Where a bidder has offered more than one brand, the allocation of quantities may be allocated to a successful bidder as single

**6.4 Negotiations**

6.4.1 The State reserves the right to negotiate with the shortlisted bidders prior or post award. The terms and conditions for negotiations will be communicated to the shortlisted bidders prior to invitation to negotiations. This phase is meant to ensure value for money is achieved through the measure of quality that will assess the monetary cost of the items or services against the quality and or benefits of that item or services.

## 7 PART 2: OTHER BID REQUIREMENT

### 7.1 Introduction

All bidders must comply with the requirements below as well as submit all required documents referred below. Unless the requirements specifically provide for mandatory compliance, the National Treasury reserves the right to disqualify a bid that does not comply with any of the requirements in clause 5.

## 8 COMPANY PROFILE

8.1 Bidders are requested to submit company profile which includes, but is not limited, to the following: -

a. Business structure and strategies; and

b. Details of the bidder's directors and shareholders/owners

c. Years of company existence and experience relevant to this bid

8.2 The company profile must further include a shareholding portfolio with valid proof of registration of the company with CIPC. If by law registration with CIPC is not required, proof of ownership/shareholding must be provided.

## 9 TERMS AND CONDITIONS

9.1 **Third Party Agreements and Subcontractor Agreements**

9.1.1 No Agreement between the bidder and any third party will be binding to the State.

9.1.2 The bidder must declare as required in terms if SBD 6.1 its intention to subcontract voluntarily and the percentage of subcontracting thereof and must provide full description of subcontractor.

## 10 SUPPLIER DUE DILIGENCE

10.1 The State reserves the right to conduct supplier due diligence prior to final award or at any time during the contract period and this may include pre-announced/ non-announced site visits. During the due diligence process the information submitted by the bidder will be verified and any misrepresentation thereof may disqualify the bid in whole or parts thereof.

10.2 An award may not be considered for any bidder who is found with previous non-performance or cancelled contract due to non-performance.

## 11 COUNTER CONDITIONS

11.1 Bidders' attention is drawn to the fact that amendments to any of the bid conditions or setting of counter conditions by bidders may result in the invalidation of such bids.

11.2 The National Treasury reserves the right to change or supplement any information or to issue any addendum to this bid before the closing date and time. The National Treasury and its officers, employees and advisors will not be liable in connection with either the exercise of, or failure to exercise this right.

11.3 If the National Treasury exercises its right to change or supplement information in terms of the above clause, it may seek amended bid documents from all bidders.

## 12 FRONTING

12.1 The NT supports the spirit of broad based black economic empowerment and recognizes that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent and legally compliant manner. Against this background the NT does not support any form of fronting.

12.2 The NT, in ensuring that bidders conduct themselves in an honest manner will, as part of the bid evaluation processes, conduct, or initiate the necessary enquiries/investigations to determine the accuracy of the representation made in this bid document. Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the the Department of Trade, Industry and Competition (the DTIC), be established during such enquiry / investigation, the onus will be on the bidder to prove that fronting does not exist.

12.3 Failure to do so by the bidder within a period of fourteen (14) days from date of notification by NT may invalidate the bid / contract and may also result in the restriction of the bidder to conduct business with the public sector for a period not exceeding ten (10) years, in addition to any other remedies the NT may have against the bidder concerned.

## 13 RIGHT OF AWARD

13.1 The State reserves its following rights:

a. To award the bid in part or in full.
b. Not to make any award in this bid.
c. Award the bid to more than one (1) bidder for the same item.
d. Request further technical information from any bidder after the closing date.
e. Verify information and documentation of the service provider.
f. Not to accept any of the bids submitted.
g. To withdraw or amend any of the bid conditions by notice in writing to all bidders prior to closing of the bid and post award; and
h. In the event that an incorrect award has been made to remedy the matter in any lawful manner it may deem fit.

## 14 SUBMISSION OF BIDS

14.1 Bidders must respond to the bid as follows:

14.2 Submit hard copies at the National Treasury, 240 Madiba Street, Tender Information Centre (TIC), Deposit the bid in the tender box before the closing date and time of the bid.

14.3 Submit any bid queries via email to Transversal.Contracting3@treasury.gov.za

14.4 The hard copy of the bid response will serve as the legal bid document.

14.5 Bidders must submit the bid to TIC in the following format:

i. One (1) original hard copy clearly marked as "original";

ii. One (1) memory stick or USB with all the documents on the original hard copy (including printed pricing schedule) and a soft copy of the pricing schedule to the National Treasury (NT)): TIC by the closing date and time of the bid.

iii. Bidders must ensure that the USB is properly secured and marked with the bidder's name.

14.6 All soft copy data submitted must be an exact copy of the hard copy documents. Any discrepancies between the electronic bid copy and the hard copy, the hard copy will take precedence.

14.7 After completing the pricing schedule in the format provided, the pricing schedule must be printed, signed and submitted together with the other bid documents which will serve as the hard copy of the bid.

14.8 A bid should be submitted in a sealed envelope or sealed suitable cover on which the name and address of the bidder, the bid number and the closing date must be clearly visible.

## 15 LATE BIDS

Bids received after the closing date and time, at the TIC will NOT be accepted for consideration and where practicable, be returned unopened to the bidder.

## 16 COMMUNICATION AND CONFIDENTIALITY

16.1 The Chief Directorate: Transversal Contracting (TC) within the Office of the Chief Procurement Officer (OCPO) may communicate with bidders where clarity is sought after the closing date and time of the bid and prior to the award of the contract, or to extend the validity period of the bid, if necessary.

16.2 Any communication to any State official or a person acting in an advisory capacity for the State in respect of this bid between the closing date and the award of the bid by the bidder is discouraged.

16.3 Whilst all due care has been taken in connection with the preparation of this bid, the National Treasury makes no representations or warranties that the content in this bid or any information communicated to

or provided to bidders during the bidding process is, or will be, accurate, current, or complete. The National Treasury, and its officers, employees and advisors will not be liable with respect to any information communicated which is not accurate, current, or complete.

16.4 If a bidder finds or reasonably believes it has found any discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by the NT (other than minor clerical matters), the bidder must promptly notify the NT in writing of such discrepancy, ambiguity, error or inconsistency in order to afford the NT an opportunity to consider what corrective action is necessary (if any).

16.5 Any actual discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by the NT will, if possible, be corrected and provided to all bidders without attribution to the bidder who provided the written notice.

16.6 All communication between the bidder and the National Treasury Transversal Contracting office must be done in writing as per the contact details below.

16.7 No representations made by or on behalf of the National Treasury in relation to this bid will be binding on the National Treasury unless that representation is expressly incorporated into the contract ultimately entered between the National Treasury and the successful bidder(s).

## 17 CONTACT DETAILS

17.1 **General enquiries may be sent via post to:** National Treasury, Office of the Chief Procurement Officer, Chief Directorate: Transversal Contracting, Private Bag x115, Pretoria, 0001. The Physical address is: 240 Madiba Street, corner Thabo Sehume and Madiba Streets, Pretoria.

17.2 **Bid Enquiries**

All enquiries should be in writing to Transversal.Contracting3@treasury.gov.za. The closing date for receipt of all enquiries is **7 October 2022**. Enquiries beyond the closing date may not be responded to.

## SECTION C:

## CONDITIONS OF CONTRACT

### 18 CONCLUSION OF CONTRACT

18.1 The Contract between National Treasury and the preferred bidder/s (Service Provider) collectively referred to as the Parties shall come into effect after the service provider has been issued with an unconditional letter of acceptance to their bid.

18.2 The Service Provider (s) shall be appointed in terms of this bid..

18.3 The following will form part of the contract documents between the Parties in as far this RT63-2022 is concerned:

i. Bid Documents;
ii. Letter of Appointment;
iii. Award Documents;
iv. Acknowledgement letter

18.4 In the event that there is any contradiction between the abovementioned documents, the special conditions of contract shall take precedence.

18.5 For purpose of Section B, the term “service provider “shall refer to the preferred bidder appointed in terms of RT63-2022 contract.

### 19 PARTICIPATING STATE INSTITUTIONS

19.1 **Provincial Departments of Health:** Eastern Cape, Free State, Gauteng, Mpumalanga, North -West, and Western Cape

19.2 **National Departments:** National Department of Health and National Health Laboratory Services (NHLS)

### 20 POST AWARD PARTICIPATION

20.1 In terms of Treasury Regulation 16A6.5 the Accounting Authority may opt to participate in transversal contract facilitated by the relevant treasury. Should the accounting officer or accounting authority opt to participate in a transversal contract facilitated by the relevant treasury, the accounting officer or accounting authority may not solicit bids for the same or similar product or services during the tenure of the transversal term contract.

20.2 The participating letter will be customised to allow participation on completion and signing thereof as the transversal contract is arranged by means of a competitive bidding process by NT, subject to an electronic (e.g. e-mail, NOT written approval/consent) acceptance by the Contract Manager or a delegate from TC.

20.3 Service providers will be notified of new participants and the list of participants will be published on the website together with any model changes, price adjustments and any other transversal contract information for the benefit of bidder(s) and participants.

## 21 CONTRACT PRICE ADJUSTMENT

### 21.1 Formula

21.1.1 Prices submitted for this bid will be regarded as non-firm and may be subject to adjustment(s) in terms of the following formula, defined areas of cost and defined periods of time.

21.1.2 Applications for price adjustments must be accompanied by documentary evidence in support of any adjustment claim.

21.1.3 The following price adjustment formula will be applicable for calculating contract price adjustments (CPA).

**Table 5: Contract Price Adjustment Formula**

$$Pa = (1-V)Pt\left(D1\frac{R1t}{R1o} + D2\frac{R2t}{R2o} + D3\frac{R3t}{R3o} + \ldots\ldots + Dn\frac{Rnt}{Rno}\right) + VPt$$

| | | |
|---|---|---|
| Pa | = | The new adjusted price to be calculated |
| V | = | Fixed portion of the bid price (15% or 0.15) |
| Pt | = | Original bid price. Note that Pt must always be the original bid price and not an adjusted price |
| (1-V)Pt | = | Adjustable portion of the bid price (85% or 0.85) |
| D1 – Dn | = | Each factor (or percentage) of the bid price, e.g., material, labour, transport, overheads, etc. The total of the various factors (or percentages) D1 – Dn must add up to 1 (or 100%) |
| R1t – Rnt | = | End Index. Index figure obtained from the index at the end of each adjustment period. |
| R1o–Rno | = | Base Index. Index figure at the time of bidding. |
| VPt | = | 15% (or 0.15) of the original bid price. This portion of the bid price remains fixed, i.e. it is not subject to price adjustment |

21.2 **Formula component definitions**

21.2.1 **Adjustable amount**

The adjustable amount is the portion of the bid price which is subject to adjustment. In this bid the adjustable amount is 85% of the original bid price. For example, if the bid price is R1000, then only R850 will be subject to adjustment.

21.2.2 **Fixed portion**

21.2.2.1 The fixed portion represents those costs which will not change over the adjustment period and DOES NOT represent the profit margin. In this bid the fixed portion is 15% of the original bid price. Using the same example as above, it would amount to R150 which will remain fixed over the contract periods.

21.2.3 **Cost components and proportions**

21.2.3.1 The cost components of the contract price usually constitute the cost of materials (raw material or finished product), cost of direct labour, cost of transport and those other costs which are inclined to change. The proportions are the contribution to the contract price of each of these cost components. In this bid the following cost components will be used to calculate contract price adjustments.

21.2.3.2 Bidders are requested to submit the cost breakdown of the bid price for each item with their bid. Should the cost breakdown be the same for all items on the bid, please indicate it clearly in the bid document. Bidders will not be allowed to change the cost breakdown of bid prices during the tenure of the contract.

21.2.3.3 Successful bidders that are direct importers of raw material / finished product can apply for RoE adjustment under cost element D1. If the successful bidder is not a direct importer of raw material / finished product, cost component D1 would not be applicable and only local cost components (D2 - Dn) would be applicable.

**Table 6: Contract Price Adjustment Cost Components**

| Cost Component | % Contribution |
|---|---|
| D1 – Imported Raw Material / Finished product | |
| D2 - Local Raw Material / Finished product (if applicable) | |
| D3 – Labour | |
| D4 – Transport | |
| **TOTAL (Cost components must add up to 100%)** | |

21.2.4 **Applicable indices/references**

The applicable index refers to the relevant market index, which is a true reflection of price movement(s) in the cost over time. In this bid the following indices or reference will be applicable:

**Table 7: Applicable Indices/References**

| Cost component | Index Publication | Index Reference |
|---|---|---|
| D1 – Imported Finished product (if applicable); | Rates of Exchange only | Reserve Bank |
| D2 - Local Finished product (if applicable): | Specify (STATS SA Index) | STATS SA Table (Specify) |
| D3 – Labour | STATS SA P0141 (CPI), Table E; OR Labour agreement1 | Table E - All Items (CPI Headline) OR Labour agreement to be provided/ Regulated Pricing Adjustment |
| D4 – Transport | Stats SA P0141 (CPI) Table E | Transport – Other Running Cost |
| D6 – Other | Specify (STATS SA Index) | STATS SA Table (Specify) |

21.2.5 **Base index date**

The base index date applicable to the formula is defined as the date at which the price adjustment starts. In this bid the base index date is **September 2022**

21.2.6 **End index date**

The end index dates are the dates at predetermined points in time during the contract period. In this bid the end indices are defined in the next paragraph (Price Adjustment Periods).

21.2.7 **Price adjustment periods**

Price adjustment shall be applied on an annual basis. The first price adjustment will be 12 months from the closing date of bid.

**Table 8: Price adjustment periods**

| Adjustment Period | CPA application to reach the office | End Index | Dates *from* which adjusted prices will become effective |
|---|---|---|---|
| 1st Adjustment | 18 September 2023 | August 2023 | 1 October 2023 |

1 *In the absence of a labour agreement, the labour cost component will be adjusted with CPI Headline inflation.*

21.2.8 **Rates of exchange (RoE) – Base and average rates**

In the event where material and/or finished products are imported the following will apply:

21.2.8.1 The formula described above will be used and the imported cost component of the bid price (D1) will be adjusted taking into account the base RoE rate refer paragraph in below paragraph and the average RoE rate over the period under review indicated in below paragraph.

21.2.8.2 In the event where the RoE adjustment goes hand in hand with a material/product price increase, the material/product price (in foreign currency) will be converted to South African currency using the base rate for the earlier invoice and the average RoE rate for the period under review as indicated in paragraph below for the later invoice.

21.2.8.3 The imported cost component (D1) will be adjusted together with all the other cost components indicated in paragraph above and at the predetermined dates indicated in paragraph above.

21.2.8.4 Rate(s) of exchange to be used in this bid in the conversion of the bid price of the item (s) to South Africa currency is indicated in the table below.

**Table 9: CPA Average Rate of Exchange**

| Currency Name | Rates of exchange: 1 March 2022 to 31 August 2022 |
|---|---|
| US Dollar | 15.88 |
| Euro | 16.73 |
| Pound Sterling | 19.78 |

21.2.8.5 Should the bidder make use of any other currency not mentioned above, the bidder is requested to calculate the average for the period **1 March 2022 to 31 August 2022** using the Reserve Bank published rates for the specific currency. Visit www.reservebank.co.za to obtain the relevant rates.

21.2.8.6 Contract price adjustments due to rate of exchange variations are based on average exchange rates as published by the Reserve Bank for the periods indicated hereunder:

**Table 10:Rate of Exchange Average Periods**

| Adjustment | Average exchange rates for the period: |
|---|---|
| 1st Adjustment | 1 March 2023 to 31 August 2023 |

21.3 **General**

21.3.1 Unless prior approval has been obtained from National Treasury, Transversal Contracting, no adjustment in contract prices will be made.

21.3.2 Application for price adjustment must be accompanied by documentary evidence in support of any adjustment.

21.3.3 CPA application will be applied strictly according to the specified formula and parameters above as well as the cost breakdown supplied by bidders in their bid documents.

21.3.4 In the event where the supplier's CPA application, based on the above formula and parameters, differs from Transversal Contracting verification, Transversal Contracting will consult with the supplier to resolve the differences.

21.3.5 Bidders are referred to the paragraph regarding counter conditions.

21.3.6 An electronic price adjustment calculator will be available on request from Transversal Contracting.

21.3.7 The State reserves the right to negotiate a price adjustment or not to grant any price adjustment.

## 22 CONTRACT MANAGEMENT: ROLES AND RESPONSIBILITIES

22.1 **Contract Administration**

22.1.1 The administration and facilitation of the transversal contract is the responsibility of the National Treasury and all correspondence in this regard must be directed to the Transversal Contracting Department via email on Transversal.Contracting3@treasury.gov.za.

22.1.2 Suppliers must advise the Chief Directorate: Transversal Contracting, National Treasury immediately when unforeseeable circumstances will adversely affect the execution of the transversal contract. Full particulars of such circumstances as well as the period of delay must be furnished.

22.1.3 National Treasury will conduct meetings with the end users and Suppliers to discuss transversal contract issues related to RT63-2022. All successful bidders are required to submit **historical value and volume reports** via e-mail on a quarterly basis to: Transversal.Contracting3@treasury.gov.za.

22.2 **Supplier Performance Management**

22.2.1 Supplier performance management will be the responsibility of the PDoH and where supplier performance disputes cannot be resolved between the contractor and the relevant purchasing institution, National Treasury: Transversal Contracting must be contacted for corrective actions.

22.2.2 Supplier performance rating Form will be instituted, and every contractor must complete it to ensure good performance.

22.2.3 End-user State institutions are required to report to National Treasury on where contractor's performance is not satisfactory.

22.2.4 Successful suppliers will have their performance scored. National Treasury will provide a template which will be used to measure overall performance in terms of the contract. Services providers who score the unacceptable performance rating may not be awarded future contract of the same bid.

22.2.5 Service Providers Performance is based on the roles stipulated on the scope of work and as well as the service level agreement.

## 23 ORDERS AND DELIVERY

### 23.1 Orders

23.1.1 Quantities reflected in this bid are estimated quantities and no guarantee is given or implied as the actual quantities which will be procured during the contract period**.**

23.1.2 Contractors should note that each individual purchasing institution is responsible for generating the order(s) as well as the payment(s) thereof.

23.1.3 Contractors should note that the order(s) will be placed as and when required during the contract period and delivery points will be specified by the relevant purchasing institution(s).

23.1.4 The instructions appearing on the official order form regarding the supply, dispatch and submission of invoices must be strictly adhered to and under no circumstances should the contractor deviate from the orders issued by the purchasing institutions.

23.1.5 The State is under no obligation to accept any quantity which is in excess of the ordered quantity.

### 23.2 Delivery adherence

23.2.1 On commencement of the contract, suppliers will be expected to deliver stock to all allocated Provinces within six weeks (lead time) after commencement of the contract.

23.2.2 Products must be evaluated by NICD on arrival in the country (1 box per batch specify quantity) and results of the evaluation must be sent to NDoH for approval before distribution of test kits to provinces.

23.2.3 Firm lead times for delivery must be quoted for the duration of the contract period.

23.2.4 Transit and storage conditions applicable to the relevant product must be adhered to On commencement of the contract, suppliers will be expected to deliver stock to all allocated Provinces within six weeks (lead time) after commencement of the contract.

23.2.5 Products must have the same batch number on the outer box as the inner boxes.

23.2.6 Delivery of goods must be made in accordance with the instructions appearing on the official order forms issued by purchasing institutions.

23.2.7 Suppliers must deliver complete orders as appearing on the official order form issued and no partial orders / delivery will be accepted by the State.

23.2.8 All deliveries or dispatches must be accompanied by a delivery note stating the official order number against which the delivery has been effected.

23.2.9 In respect of items awarded to them, contractors must adhere strictly to the delivery lead times quoted in their bids.

23.2.10 Deliveries not complying with the order forms will be returned to the contractor at the contractor's expense.

23.2.11 The State reserves the right to negotiate delivery lead times.

## 24 POST MARKET SURVEILLANCE (CONSIGNMENT/BATCH TESTING)

24.1 The state reserves the right to inspect consignments (products) pre and post- production on a batch to batch or lot for lot basis to ensure that the products comply with predetermined specifications.

24.2 Suppliers must submit original sealed boxes containing not less than 150 test kit devices per batch for testing. The boxes will be randomly selected.

24.3 The contract and official orders to the successful bidder will reflect that the relevant testing institution is required to carry out consignment/batch inspections. The purchasing institution will send a copy of the official order to the testing institution and notify the testing institution in writing (preferably by means of an official order) that consignment /batch tests must be carried out.

24.4 It is the responsibility of the purchasing institution to determine and explicitly stipulate the number and frequency of consignment inspections to be carried out, as the costs of such inspections would be borne by the contractor.

24.5 The consignment inspection will be carried out before delivery at the supplier's premises or after receipt of the consignment at the purchasing intuition's warehouse.

24.6 Inspection at the supplier's premises is preferable as any faults are then indisputably the responsibility of the supplier and the correction thereof could be done promptly.

## 25 END- USER TRAINING

25.1 It is a condition of bid that the successful bidder must be able to provide relevant initial training in all the nine or allocated provinces prior to supplying the test kits. The bidder must also be available for re-training when the need arises. Training should be provided at no additional cost to all the end users.

## 26 PACKAGING AND LABELLING (PRODUCT INFORMATION)

26.1 **Packaging**

26.1.1 All deliveries made against this contract, in all modes of transport, are to be packed in suitable containers, which will be acceptable for further dispatch.

26.1.2 Packaging must be suitable for further dispatch, storage and stacking according to Good Wholesaling Practice and Good Distribution Practice.

26.1.3 Packaging must be suitable for transportation and should prevent exposure to conditions that could adversely affect the stability and integrity of the product.

26.1.4 The packing must be uniform for the duration of the contract period. All products must be packed in acceptable containers, specifically developed for the product.

26.1.5 The number of units in the unit pack, shelf pack and shipper pack must be completed in the **Annexure B - Pricing Schedule** attached.

26.1.6 Where a particular stacking and storage configuration is recommended by the supplier, this should be clearly illustrated on the outer packaging.

26.1.7 Where the contents of the shipper pack represent a standard supply quantity of an item, the following must be adhered to:

a. Outer packaging flanges must be sealed with suitable tape that will clearly display evidence of tampering

b. The contents must be packed in neat, uniform rows and columns that will facilitate easy counting when opened.

26.1.8 Where the content of a shipper pack represents a non-standard supply quantity, the following must be adhered to:

I. Outer packaging flanges must be sealed with suitable tape that will clearly display evidence of tampering.

II. The shipper pack must contain only one product, mixing of multiple items in a single shipper is not allowed.

III. The outer packaging must be clearly marked as a "Part Box".

26.1.9 Suppliers must ensure that products delivered are received in good order at the point of delivery.

## 27 LABELLING (PRODUCT INFORMATION)

27.1 All containers, packing and cartons must be clearly labelled. Bulk packs must be labelled in letters not less than font size 48.

27.2 The following information must be clearly and indelibly printed on all inner and outer packaging:

a. Proprietary name (if applicable) Name of manufacturer
b. A product code as relevant
c. The trade name or trademark of the manufacturer
d. Date of manufacture (where applicable)
e. Quantity of contents
f. Batch /LOT number (where applicable). Products must have the same batch/LOT number on the outer box as on the inner box.
g. Expiry date (where applicable)
h. The word “sterile” (where applicable)
i. Size of the product

## 28 SHELF LIFE

28.1 Where applicable, products, upon delivery must have at least greater or equals to **12 months** of shelf-life before date of expiry.

28.2 Contractors may make written applications to the purchasing institution to deliver goods with a shorter shelf-life, provided such applications are accompanied by an undertaking that unused short- dated stock shall be unconditionally replaced before or after expiry.

28.3 Any delivery of short-dated supplies without prior written approval must be collected by the respective suppliers at their own cost.

28.4 Any participating institution may, without prejudice, decline written applications to deliver short-dated stock.

## 29 TEMPERATURE CONDITIONS

29.1 Suppliers must ensure that medical devices are stored under conditions specified to prevent deterioration by light, moisture, temperature or other conditions. Storage conditions must be monitored and recorded periodically, where appropriate. Records of the storage conditions must be maintained by the supplier.

29.2 Suppliers must establish adequate methods of transportation to achieve safe and secure delivery of all medical devices from their point of collection to their point of delivery.

29.3 Medical devices must be transported in such a way that: their identification is not lost; they do not contaminate, and are not contaminated by, other medical devices or materials/substances adequate precautions are taken against spillage, breakage or theft; they are secure and not subjected to unacceptable degrees of heat, cold, light, moisture or other adverse influence, or to attack by microorganisms and pests. medical devices requiring controlled temperature storage or other special control and conditions are transported by appropriate or specialised means.

29.4 If test kits are stored incorrectly and adversely affect results, then the supplier will replace the testing sites in collaboration with the purchasing institution.

## 30 REPORTABLE CHANGES TO AWARDED DEVICES

30.1 Adverse Events which can lead to misdiagnosis must be reported by the bidder within 24 hours – 48 hours of being aware of them.

30.2 Bidders must report to National Treasury and National Health all changes with regards to make of the awarded product. The manufacturer must regard ALL planned substantial changes and certain administrative changes as reportable. The reportable changes include the following:

30.2.1 Changes to the prequalified product or its manufacture.

30.2.2 Changes in the Quality Management System (QMS) that the product was designed and manufactured under; and/or

30.2.3 Other reportable administrative changes.

30.3 The reportable changes guidance document can be reviewed on the website in the case of WHO PQ products (http://www.who.int/diagnostics_laboratory/evaluations/en/) and the required form is to be completed and submitted to the WHO and the Department of Health and Treasury. This requirement will also apply to any non-WHO PQ test devices that are selected.

30.4 In the case of non-WHO PQ devices, the forms must be submitted to Department of Health and National Treasury for risk assessment review. The supplier and manufacturer must acknowledge that they have read and understood the requirements as part of the conditions of acceptance of the contract.

30.5 Reportable changes are mandatory for the selected medical devices. Failure to adhere to the requirement may result in the termination of the contract.

30.6 Contractors are to take note that the price of the new device should not differ from the current bid price of the original device.

30.7 Adverse Events which can lead to misdiagnosis must be reported by the bidder within 24 hours – 48 hours of being aware of them.

30.8 The new device must adhere to the minimum specification for the specific item.

30.9 Contractors are not to deliver new devices of the reported changes prior to approval by the National Treasury: Transversal Contracting.

## 31 PRODUCT ADHERENCE AND BRAND CHANGE

31.1 In the event where a bidder offers a specific brand against an item in this bid and the item is subsequently awarded to the bidder, it is required of the successful bidder to continue to supply the brand awarded throughout the contract period.

31.2 In the event that the medical device is discontinued and or replaced with a new model, National Treasury, Transversal Contracting must be notified of such an occurrence. A formal application to change the brand/model must be submitted for consideration and approval by National Treasury. The contractor is required to submit supporting documents from the manufacturer substantiating the changes.

31.3 It must be noted that the new brand will be required to undergo the evaluation process prior to receiving approval of the brand change issued by National Treasury. The new brand must adhere to the technical specification for the item.

31.4 Furthermore, contractors are to take note that the price of the new brand should not be higher from the current contract price of the original model.

31.5 Contractors are not allowed to deliver a new brand other than the brand awarded to them prior to an approval of brand change from National Treasury.

## 32 TERMINATION

32.1 The State reserve the right to terminate this agreement if one or more of the following circumstances:

a. The service provider decides to transfer the contract or cede the contract.

b. The service provider does not honour contractual obligations including submission of information.

c. The service provider is provisionally or finally liquidated, making it impossible for the service provider to perform its functions in terms of this Contract.

d. The service provider enters into settlement arrangements with their creditors.

e. The service provider commits an act of insolvency.

f. In the event that the service provider is a member of an unincorporated joint venture or consortium and the membership of such joint venture or Consortium changes.

g. There is a change in ownership of the service provider that has the effect that over 50% ownership of the service provider belongs to the new owner without prior written approval of the State.

h. Overall poor performance rating during the contract period.

**THE END**