



YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE DEPARTMENT OF LOCAL GOVERNMENT

BID DOCUMENTS OBTAINABLE FROM Ms. C. Johnson (lg.finance@westerncape.gov.za)	ADMINISTRATIVE ENQUIRIES Mr. A Seale (lg.finance@westerncape.gov.za)	SPECIFICATION ENQUIRIES Mr. M Brand & Mr. V Ackeer (lg.finance@westerncape.gov.za)
ADVERTISEMENT DATE 27 September 2024	CLOSING DATE AND TIME 8 November 2024	VALIDITY PERIOD 60 days

Bid Number: LG-03 2024-2025

TERMS OF REFERENCE

APPOINTMENT OF A PROFESSIONAL SERVICE PROVIDER TO OFFER ENERGY AND ELECTRICAL ADVISORY SERVICES TO WESTERN CAPE MUNICIPALITIES ON AN AS NEEDED BASIS FOR THE PERIOD ENDING 31 MARCH 2026

Bid documents must be deposited on or before the closing time: The bid box is open 24 hours a day, 7 days a week. The onus is on the Bidder to ensure that the bid is deposited in the correct tender box on or before the closing date and time. The blue tender box clearly marked "Local Government" is situated in the foyer / passage of 80, St Georges Mall, Waldorf Building, Cape Town 8000.

Physical Address
Department of Local Government
Ground Floor, 80 St Georges Mall
Waldorf Building
Cape Town, 8000

Bidders should ensure that bids are delivered timeously to the correct address. If the bid is late, it will not be accepted for consideration. No Telegraphic, telex, facsimile or e-mailed bids will be accepted.

ALL BIDS MUST BE SUBMITTED IN A CLEARLY MARKED ENVELOPE WITH THE BIDDERS ADDRESS DETAILS ON THE BACK. ALL BIDS MUST BE ON THE OFFICIAL FORMS (NOT TO BE RE-TYPED) OR SEPARATED. FAILURE TO ADHERE TO THESE INSTRUCTIONS MAY RESULT IN THE BID BEING DISQUALIFIED.

THIS BID IS SUBJECT TO THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (WCBD 7.1) AND / SERVICE LEVEL AGREEMENT IF APPLICABLE.

CHAIRPERSON: BID SPECIFICATION COMMITTEE

DATE: 26/09/24

HEAD: SUPPLY CHAIN MANAGEMENT

DATE: 27-09-2024

PART A INVITATION TO BID

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

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

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

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

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

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

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)

BID NUMBER:	LG-03 2024-2025	CLOSING DATE:	8 NOVEMBER 2024	CLOSING TIME:	11:00 AM
DESCRIPTION	APPOINTMENT OF A PROFESSIONAL SERVICE PROVIDER TO OFFER ENERGY AND ELECTRICAL ADVISORY SERVICES TO WESTERN CAPE MUNICIPALITIES ON AN AS NEEDED BASIS FOR THE PERIOD ENDING 31 MARCH 2026				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
DEPARTMENT OF LOCAL GOVERNMENT					
BLUE TENDER BOX CLEARLY MARKED "LOCAL GOVERNMENT"					
SITUATED IN THE FOYER / PASSAGE, GROUND FLOOR, 80 ST GEORGES MALL, WALDORF BUILDING, CAPE TOWN					
8000					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSONS	MR A SEALE/ MS C JOHNSON		CONTACT PERSONS	MR M BRAND & MR V ACKEER	
TELEPHONE NUMBER	N/A		TELEPHONE NUMBER	N/A	
FACSIMILE NUMBER	N/A		FACSIMILE NUMBER	N/A	
E-MAIL ADDRESS	LG.FINANCE@WESTERNCAPE.GOV.ZA		E-MAIL ADDRESS	LG.FINANCE@WESTERNCAPE.GOV.ZA	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		AND	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	[TICK APPLICABLE BOX] ☐ Yes ☐ No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX] ☐ Yes ☐ No
IF YES, WAS THE CERTIFICATE ISSUED BY A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN NATIONAL ACREDITATION SYSTEM (SANAS)	[TICK APPLICABLE BOX] ☐ Yes ☐ No				

[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/SWORN AFFIDAVIT (FOR EMEs & QSEs) MUST BE SUBMITTED TOGETHER WITH A COMPLETED 6.1 IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS/ SERVICES/ WORKS OFFERED?	☐ Yes ☐ No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]
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QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	☐ YES ☐ NO
DOES THE ENTITY HAVE A BRANCH IN THE RSA?	☐ YES ☐ NO
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	☐ YES ☐ NO
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?	☐ YES ☐ NO
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?	☐ YES ☐ NO
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.	

**PART B
TERMS AND CONDITIONS FOR BIDDING**

1. BID SUBMISSION:
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION. 1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED – (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT. 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT. 1.4. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (WCBD7).
2. TAX COMPLIANCE REQUIREMENTS
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS. 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS. 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILING THROUGH THE WEBSITE WWW.SARS.GOV.ZA. 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE WITH TOGETHER WITH THE BID. 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED; EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE AND CSD NUMBER AS MENTIONED IN 2.3 ABOVE. 2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED. 2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."
NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID

SIGNATURE OF BIDDER:

.....

CAPACITY UNDER WHICH THIS BID IS SIGNED:
(Proof of authority must be submitted e.g. company resolution)

.....

DATE:

.....

PROVINCIAL GOVERNMENT OF WESTERN CAPE

DEPARTMENT OF LOCAL GOVERNMENT

BID NUMBER: LG-03 2024- 2025

TERMS OF REFERENCE

APPOINTMENT OF A PROFESSIONAL SERVICE PROVIDER TO OFFER ENERGY AND ELECTRICAL ADVISORY SERVICES TO WESTERN CAPE MUNICIPALITIES ON AN AS NEEDED BASIS FOR THE PERIOD ENDING 31 MARCH 2026

ANNEXURE REFERENCE	TENDER DOCUMENT NAME	RETURNABLE DOCUMENT (INDICATE PAGE NUMBER)
A	FORM OF OFFER AND ACCEPTANCE (WCBD 1)	
B	PRICING SCHEDULE (WCBD 3.1)	
C	CONSOLIDATED DECLARATION OF INTEREST, BIDDER'S PAST SUPPLY CHAIN PRACTICES AND INDEPENDENT BID DETERMINATION (WCBD 4)	
D	PREFERENCE POINTS CLAIM FORM (WCBD 6.1)	
E	TERMS OF REFERENCE	
F	GENERAL CONDITIONS OF CONTRACT (GCC)	
G	B-BBEE CERTIFICATE	
H	PROVIDE THE MAAA CENTRAL SUPPLIER DATABASE (CSD) REPORT AND OR MAAA NUMBER	
PLEASE ENSURE THAT ALL OTHER RELEVANT SUPPORTING DOCUMENTS AS PER THE TERMS OF REFERENCE AND PRICING SCHEDULE (WCBD 3.1) ARE CLEARLY LABELLED AND INCLUDED IN YOUR PROPOSAL.		

NB: ALL BID DOCUMENTS (PROPOSALS) MUST BE ANNEXED AS INDICATED ABOVE.



**APPOINTMENT OF A PROFESSIONAL SERVICE PROVIDER TO OFFER ENERGY
AND ELECTRICAL ADVISORY SERVICES TO WESTERN CAPE MUNICIPALITIES ON
AN AS NEEDED BASIS FOR THE PERIOD ENDING 31 MARCH 2026**

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1. INVITATION TO BID AND PURPOSE

The Department of Local Government (DLG) within the Western Cape Government is leading efforts to enhance energy-related initiatives within municipalities across the province. As part of this endeavour, DLG is seeking to engage a professional service provider to offer specialized support in energy-related matters to municipalities within the Western Cape.

Professional Service Providers in the Energy and Electrical space are invited to submit tenders for energy consulting and advisory services for the district and local municipalities in Western Cape province as and when required. The professional services will include, cost-benefit analysis, regulatory compliance, energy policy development, master & energy planning, feasibility of renewable energy integration, project management, procurement advisory, cost of supply studies, feasibility of emerging technologies, provision of training and education, advising on available funding mechanisms, Public-Private Partnerships (PPPs), support toward disaster management, condition assessments, energy assessments and technical audits.

The purpose of this initiative is to effectively support the capacity of municipalities in the Western Cape in addressing energy challenges, optimize energy usage, decarbonisation of energy and develop sustainable energy solutions. By partnering with professional service providers, DLG aims to leverage expertise and resources to advance energy planning, strategy development, and the implementation of energy-efficient practices within municipal infrastructure.

Through this collaboration, DLG seeks to empower municipalities to navigate complex energy landscapes, enhance resilience to energy-related risks, and contribute to the overall sustainability and development of communities across the Western Cape.

In line with these objectives, DLG is issuing this tender to solicit proposals from qualified and experienced entities capable of providing comprehensive support in energy-related areas to municipalities within the Western Cape.

2. BACKGROUND

The Western Cape Department of Local Government (DLG) is part of a province-wide energy resilience initiative to ensure decarbonisation of the energy sector, the introduction of

renewable sources of energy generation, loadshedding impact reduction, infrastructure and financial planning.

Furthermore, the Department of Local Government is responsible to capacitate municipalities to deliver quality services to communities; promote participative, integrated and sustainable communities and to be the first port of call to municipalities for advice and support. This municipal support includes management of grant funding with respect to energy related programmes and projects. The DLG further provides technical support to municipalities where required.

The service provider is required to provide specialist electrical engineering advisory services in order to wholly support municipalities, thereby improving the capacity within the Western Cape municipalities.

3. CONTRACT TERM AND TERMINATION

- 3.1. This Agreement shall commence on the date of acceptance of appointment and the contract agreement will terminate on 31 March 2026, unless the Parties have agreed to an additional 12 month of the Agreement in writing, or it is terminated by either Party in writing.
- 3.2. The Department may cancel the agreement or temporarily suspend all or part of the services by giving 30 days' notice to the successful bidder(s), who shall immediately make arrangements to stop the performance of the services and minimise further expenditure, provided that the successful bidder shall there upon be entitled to payment in full for the services delivered, up to the date of cancellation or suspension.

4. COMPULSORY BRIEFING SESSION

- 4.1. A virtual compulsory information session will be held on the Microsoft Teams online platform on **10 October 2024 at 10h30**. The session will be open at the afore-mentioned stated time. Attendees will be allowed access to the meeting from 10h30 with the Chairperson closing access at 11h00 whereafter the session will commence.
- 4.2. Prospective service providers must indicate their intention of attending the compulsory virtual briefing session by sending an email to lg.finance@westerncape.gov.za with the reference number: **LG-03 2024-2025 stated in the subject line of such emails before or on 7 October 2024 by 15h00 latest**. No requests will be considered after this cut-off date and time. The said

email should clearly state the prospective service provider's representatives full name, official email address, and contact number.

- 4.3. Only representatives of service providers received as per point 4.2 on or before the before-mentioned due date will be invited and allowed access to the compulsory virtual briefing session. **The meeting link will be sent on or before the close of business on 8 October 2024.** If the said representative(s) cannot attend, a separate email should be sent with the details of the replacement on or before the due date listed above. The meeting links should not be shared with non-representative(s).
- 4.4. The Chairperson will further use this information to prepare a pre-populated register to monitor and control access to the session. Access to the session will therefore be restricted to this pre-populated register. Upon closing access to the briefing session, the chairperson will allow for a formal introduction of representatives and confirm such attendance against the pre-populated register.
- 4.5. An automatic attendance register will be generated from MS Teams and compared against the verbal confirmations and will be considered as the official attendance register of the virtual compulsory briefing session.
- 4.6. The details disclosed at the compulsory briefing session shall be deemed to form part of these Terms of Reference once they have been disclosed to all prospective service providers in attendance at the virtual compulsory briefing session.
- 4.7. No proposals will be accepted from prospective service providers who did not attend the virtual compulsory briefing session.
- 4.8. Questions of clarity following the compulsory briefing session regarding this Scope of Work will only be responded to until **25 October 2024** via the email: LG.Finance@westerncape.gov.za. Any such queries received by email, including queries raised at the briefing meeting, will be consolidated, and emailed to all the Tenderers at the addresses provided by the tenderers at the briefing meeting.

5. TENDER CONDITIONS

5.1. Contractual aspect

5.1.1. This bid is subject to:

- (a) General Conditions of Contract (GCC), issued in accordance with Chapter 16A of the Treasury Regulations;
- (b) The Special Conditions of Contract (SCC), which in terms of clause 5.1.2 below, are the contents of this document;
- (c) Section 10 of this document, being 'Adjudication of proposals; and
- (d) The application of the 80:20 Preferential Procurement Points System.

5.1.2. The content of this document shall be deemed to constitute the Special Conditions of Contract (SCC) applicable to this bid and shall be read together with the GCC. Where, however, the SCC conflict with the GCC, the SCC shall prevail.

5.1.3. The bid document, together with the specifications contained in this document, shall constitute part of the Contract.

5.1.4. Bidders shall not perform any work or render any services in terms of the Contract unless in receipt of a written instruction to this effect by the Department.

5.1.5. The successful Bidder may not assign his/her obligations.

5.1.6. The successful Bidder must advise the Department immediately when unforeseeable circumstances will adversely affect the execution of the contract. Full particulars of such circumstances as well as the period of delay must be furnished.

5.2. Disclaimer

5.2.1. Bidders must make and rely on their own investigations and satisfy themselves as to the correctness of any or all aspects of the bid. The Department will not be liable for any incorrect or potentially misleading information in relation to any part of this document and any accompanying bid documents.

5.2.2. The Department reserves the right to cancel this BID at any time prior to award for any reason but not limited to the following:

- (a) Due to changed circumstances for instance, if there is no longer a need for the services as specified in these Terms of Reference;

- (b) Funds are no longer available to cover any envisaged expenditure;
- (c) No acceptable bids are received; or
- (d) There is a material irregularity in the tender process.

5.3. Indemnity

5.3.1 The bidders will indemnify, protect, defend and hold harmless the Department from and against any and all claims, demands, actions and proceedings whatsoever including all fees, costs and expenses incurred in respect thereof arising out of:

- a) Any claim of any taxes payable by the bidder.
- b) Any claim for Workmen's Compensation Insurance or for any loss for which the bidder is liable.
- c) Any claim by a third party including any employees of Department or of the bidder for any loss resulting from any bodily injury and or damages to property by any act or omission of the bidder or any of its employees, sub-consultants or service providers.

5.4. Confidentiality

The successful Bidder/s shall regard all information in, or in support of the project, as confidential and may not use any information for personal or 3rd party gain. All communication with the media regarding this project (if any) will be conducted via the communication component of the Department (unless agreed upon otherwise).

5.5. Conflict of Interest, Corruption and Fraud

5.5.1 The Department reserves its right to disqualify any bidder who either itself or any of its members (save for such members who hold a minority interest in the bidder through shares listed on any recognised stock exchange), indirect members (being any person or entity who indirectly holds at least a 15% interest in the bidder other than in the context of shares listed on a recognised stock exchange), directors or members of senior management, whether in respect of DLG or any other government organ or entity and whether from the Republic of South Africa or otherwise ("Government Entity"):

- a) engages in any collusive tendering, anti-competitive conduct, or any other similar conduct, including but not limited to any collusion with any other bidder in respect of the subject matter of this bid;
- b) seeks any assistance, other than assistance officially provided by a Government Entity, from any employee, advisor or other representative of a Government Entity in order to

obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity;

- c) makes or offers any gift, gratuity, anything of any value or other inducement, to any Government Entity's officers, directors, employees, advisors or other representatives in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to the Department;
- d) accepts anything of value or an inducement that would or may provide financial gain, advantage or benefit in relation to procurement or services provided or to be provided to the Department;
- e) pays or agrees to pay to any person any fee, commission, percentage, brokerage fee, gift or any other consideration, that is contingent upon or results from, the award of any tender, contract, right or entitlement which is in any way related to procurement or the rendering of any services to the Department;
- f) has in the past engaged in any matter referred to above; or
- g) has been found guilty in a court of law on charges of fraud and/or forgery, regardless of whether or not a prison term was imposed and despite such bidder, member or director's name not specifically appearing on the List of Tender Defaulters kept at National Treasury.

5.6. Misrepresentation during the lifecycle of the contract

- 5.6.1. A bidder should note that the terms of its bid will be incorporated in the proposed contract by reference and that the Department relies upon the bidder's bid as a material representation in making an award to a successful bidder and in concluding an agreement with the bidder.
- 5.6.2. It follows therefore that misrepresentations in a Bid may give rise to service termination and a claim by the Department against the bidder notwithstanding the conclusion of the Service Level Agreement between the Department and the bidder for the provision of the Service in question. In the event of a conflict between the bidder's proposal and the Service Level Agreement concluded between the parties, the Service Level Agreement will prevail.

5.7. Absence of Obligation

No legal or other obligation shall arise between a bidder and the Department unless and until the formal appointment documentation has been signed. The Department is not obliged to proceed with any proposals of any bidder. The Department also reserves the right to request changes to any proposed consortia.

5.8. Intellectual Property

- 5.8.1. The successful Bidder must note that all drafts, including the final draft of the document and any digital information derived in undertaking the project will be the sole property of the DLG. Any studies, reports or other material, graphic, data, software or otherwise prepared by the appointee for this project under this contract shall belong to and remain the property of DLG. No presentations of the reports may be made without prior written permission of the WCG, and all information contained in these reports is considered confidential unless agreed otherwise in writing.
- 5.8.2. All materials emanating from services rendered with a branding implication must be consulted with the DLG's Communication Services unit prior to the design or production thereof. Materials may include, but are not limited to, specialist reports; advertising; promotional materials and/or any other communication product produced for public or internal consumption. Any material/ content developed prior to the commencement of the project shall remain the property of the bidder.

5.9. Preparation Cost

The Bidder will bear all its costs in preparing, submitting, and presenting any response or Tender to this bid and all other costs incurred by it throughout the bid process. Furthermore, no statement in this bid will be construed as placing the Department, its employees, or agents under any obligation whatsoever, including in respect of costs, expenses or losses incurred by the bidder(s) in the preparation of their response to this bid.

5.10. Sub-Contracting Requirements

Due to the extent of the services and/or skills sets required on the project team, bidders may include sub-consultants as part of their bid in order to meet the minimum required experience as well as to form the minimum required team as detailed in these terms of reference, subject to the relevant supply chain management regulations and policies.

Please ensure that the WCBD 6.1 Bid Document is completed accurately to ensure that your offer is acceptable / considered for further evaluation.

6. SCOPE OF WORKS

The items listed below encompass the scope of work for the energy advisory service provider. The services to be rendered will be provided to local and district municipalities within the boundaries of the Western Cape. This support is aimed to improve these municipalities to build their own energy resilience and enable energy resilience in their municipal areas in line with the Western Cape Energy Resilience Programme. The responsibilities outlined herein are integral to the advisor's role in analysing, advising, and optimising energy-related aspects.

The responsibilities outlined herein are integral to the role in designing, analysing, advising, and optimising energy-related projects and processes as, when and where required. The scope of the energy specialist is activity-based and focuses on the support to local and district municipalities in the Western Cape. The comprehensive scope includes the following key areas:

No	Deliverable	Scope Description
1.	Cost-Benefit Analysis	- Perform cost-benefit analyses for proposed energy solutions / projects to determine their economic viability. - Evaluate the return on investment for different energy projects.
2.	Regulatory Compliance	Support municipalities to comply with all relevant energy regulations, policies and standards.
3.	Municipal Energy Policy Development	- Consultancy to provide input to municipal energy policy formulation and amendments. - Integrate strategies for demand reduction, renewable energy utilization, and energy-efficient technologies into the policy framework.
4.	Master & Energy Plans	- Assist Municipalities to develop and review master plans and energy plans. - Advise on the integration of renewable energy sources. - Advisory services to standardise Master & Energy Plans between municipalities.
5.	Feasibility of Renewable Energy Integration	Determine feasibility studies of use of renewable energy sources like solar, wind, waste-to-energy, hydropower into the municipal energy mix.

6.	Project Management	• Assist Municipalities to develop a scope of works on energy projects. • Identify and mitigate project risks using sound risk management principles.
7.	Procurement	• Assistance in drafting and / or reviewing of technical specifications. • Assistance in the evaluation of tenders. • Prepare documentation for procurement of goods and services.
8.	Expert Advisory Services	• Provide expert advice on specialized engineering matters. • Ensure cost-effective, safe designs.
9.	Emerging Technology	• Advise on emerging technologies in the energy sector and assess their applicability to municipal infrastructure projects.
10.	Training and Education	• Provide energy related training sessions to municipal and provincial staff. • Review and implement training philosophy for energy/electricity related field workers, i.e. alignment to regulatory compliance, SANS 474-code of practice for electricity metering. • Assist with developing and/or review of Standard Operating Procedures (SOPs) where they don't exist.
11.	Funding mechanisms	• Support for the application for various, available energy related grants for municipalities. • Assist in identifying funding sources that align with the municipality's energy goals.
12.	Public-Private Partnerships (PPPs)	• Investigate the feasibility of engaging in public-private partnerships to implement energy projects. • Evaluate potential revenue-sharing models that align with the municipality's energy objectives.
13.	Disaster Management Assessment	• Provide for assessment on energy infrastructure during disaster events. • Advise on risk mitigation measures related to electrical / energy infrastructure. • Develop and update the municipalities business continuity plans

14.	Condition / Performance Assessments	• Provide specialised input with respect to determining the condition of electrical assets.
15.	Energy Assessments and Audits	• Conduct energy audits to evaluate the energy consumption patterns for municipal infrastructure. • Conduct energy audits specifically tailored to municipal pump stations to identify opportunities for energy savings and efficiency improvements. • Issuing of energy performance certificates for buildings.
16.	Cost of Supply Studies	• Develop / Review of Cost of Supply studies related to electricity / energy tariffs. • Advisory services to standardise COSS between municipalities.

7. PAYMENTS OF SERVICES

Payment will be based on the submission of progress reports and deliverables as stipulated and agreed upon in the service level agreement (SLA) and aligned to the deliverables stipulated and based on certification of the completed works. The Department is prohibited from making any upfront payments. Payment will only be made within 30 days upon receipt of a valid invoice with the supporting progress reports, approved by the Project Manager.

The service provider will be requested to compile cost estimates as per a specific task order to be issued when a task is triggered for delivery. This cost estimate must consider the relevant skills to be employed which will be dependent on the complexity of the task. Invoices rendered must subsequently be aligned to approved cost estimates and reflect payment of items only for work completed as per the applicable progress report.

The successful service provider will be paid according to the price agreed on the original cost estimate.

7.1. Advisory Services Fees

The scope of works will be remunerated subject to time allocated and hourly rates for administrative and professional fees (personnel fees) as applicable to the specific task order issued.

The applicable advisory fees will be based on rates applicable to consultants as published from time to time by the Department of Public Service and Administration (DPSA) (with effect from 01 July 2020 subject to published changes – copy of latest version of these rates are attached hereto as **ANNEXURE i**).

The Project Administration Services will be remunerated according to a DPSA salary band of level 6 - 8 for long term consulting inclusive of overheads inclusive of mark-up.

Professional technical advisory services (Engineer) will be remunerated according to a DPSA salary band of level 10 - 11 for long term consulting inclusive of overheads inclusive of mark-up.

Professional technical advisory services (Senior Engineer) will be remunerated according to a DPSA salary band of above level 11 - 12 for long term consulting inclusive of overheads inclusive of mark-up.

Professional technical advisory services (Specialist Lead Engineering Advisor) will be remunerated according to a DPSA salary band of above level 12 for long term consulting inclusive of overheads inclusive of mark-up.

7.2. Reimbursements / Disbursements

The successful service provider will be allowed to claim for reimbursements of travel and accommodation only as per the National Circular for Travel Cost and in terms of the Departments policy for Subsistence and Travel (S&T).

- Travel ("Transport") will be paid based on actual kilometres travelled and the monthly published rates of the National Circular for Travel Cost
- The max rate claimable will be **R5.75** (incl. VAT) per kilometre.
- "Travel time" will be paid a flat rate of **R774.00** (incl. VAT) per hour.
- "Accommodation" will be paid based on actual invoices and proof of payments as received. The maximum rate claimable will be **R1 150** (incl. VAT) per night.
- No Reimbursements will be paid for meals and other daily expenses.

All other reimbursements must be included in the lump-sum rates for scope of works.

7.3. Instructions for completion of Pricing Schedule (WCBD 3.1)

Bidders are required to provide consulting fee rates per category of resource to be utilised. This rate must be all inclusive of the resource cost, overhead costs, profit margin to form the full hourly rate of the resource.

- The unit rates and the cost per deliverable indicated in the WCBD 3.1 will be regarded as the official and final rates and cost offered per deliverable. The actual work to be performed by successful bidders once given an instruction, will be paid at these tendered rates.
- Rates offered must be fixed for the duration of the contract period ending 31 March 2026.
- Individual rates quoted per item must be quoted in RSA currency and must be exclusive of VAT.
- The Final Bid price must be calculated by adding VAT to the summed total for Scope of Works and given in table 1 of the Pricing Schedule (WCBD 3.1 document). The total fee proposal will not be regarded as a contract price but will be utilised for evaluation purposes only.

SW will be remunerated based on a fixed rate to be provided in the pricing schedule for each deliverable as per section 6.

The Department is prohibited from making any upfront payments. Payment will only be made within 30 days upon receipt of an original invoice accompanied by progress reports as well as required audit evidence of achievement of deliverables as stipulated in the Service Delivery/Level Agreement:

The final invoice will only be paid on proof of successful transfer of the skills required to perform the scope of works to the Department.

8. MANAGEMENT OF CONTRACT

- 8.1. The successful service provider will enter into a Service Level Agreement with the Department for the services. A service level agreement will be drawn up detailing all contractual obligations between the Department and the appointed Bidder. The service level agreement will specify, inter alia, the agreed deliverables and outcomes of the project and payment schedule linked to the agreed deliverables and outcomes.

- 8.2. The contract awarded to a successful bidder is subject to the general conditions of contract and the special conditions of contract.
- 8.3. A Senior Official designated by the Head of Department Local Government will be responsible for the management of the service provider.
- 8.4. Meetings will take place as requested by the Department to monitor progress and to address issues that require attention. The meetings will take place at a suitable venue within the WCG Departments offices in Cape Town or virtually.
- 8.5. In addition to said meetings and discussions, the service provider will submit signed progress reports to the Project Manager monthly or quarterly as per the request of the Project Manager. The payments of invoices rendered will be made against the completed scope of works as reported in the progress reports.
- 8.6. A final close-out report shall be submitted 1-month after the end of the Departmental financial year to close off the projects implemented in each year including all monitoring and evaluation information. This report must also summarize the scope and impact of the project.

9. BID PROPOSAL

- 9.1. Bidders will be required to submit, at their own cost, the Bid Proposal in which they demonstrate their understanding of the work to be undertaken as described under Scope of Works and demonstrate their ability to execute the project described in the terms of reference.
- 9.2. The bid proposal must comprise of the below compulsory sections, clearly referenced in the table of contents in the below order. If a bidder opts to submit a bid with sub-consultants, all respective companies' information must be included under each of the below sections.

9.2.1. Company Profile (Please mark as Annexure A)

Concise but full information should be provided on the company(s).

9.2.2. Proposed Approach and Methodology (Please mark as Annexure B)

The prospective bidder must demonstrate a **thorough** understanding of the advisory activities by indicating what is required of each item indicated under the Scope of Works, section 6 of the bid document. This should include the following:

- The prospective bidder must clearly indicate the approach and methodology that they intend to follow to achieve the required deliverables.
- This approach and methodology must illustrate that the bidder
 - (1) understands the nature of the work (demonstrate scientific knowledge), and
 - (2) has good insight as to what actions or activities are required to complete the required deliverables (demonstrate practical experience).

The proposed approach and methodology narrative to be included representing the combined knowledge and experience of all the consultants (in case of sub-consultants)

9.2.3. Experience Record (Please mark as Annexure C)

The successful service provider will primarily provide professional energy and electrical advisory services for the Western Cape municipalities. It is therefore expected that potential bidders have extensive experience within the Western Cape as local knowledge has proven to be critical in previous contracts. Extensive experience in electricity distribution, energy master planning, demand side management and delivery of renewable energy projects will be of importance.

The prospective bidder shall therefore provide documentation of company experience, including:

- (1) Company experience, indicating the number of years' experience in the relevant aspects pertaining to the indicated **Scope of Works** as well as the extent of said services throughout Western Cape municipalities.

The bidder shall only list relevant projects. For each of the projects listed, the following information should be provided: (Provide consolidative list in case of sub-consultants)

- Brief project description (stated whether it relates to energy resilience projects within the Western Cape or advisory services rendered)
- Exact services performed on the project or service;
- Value of the contract of project or service performed;
- Dates of commencement and completion (or projected completion) of services;
- Client testimonial per project inclusive of client's name, client contact person details, address, telephone number, e-mail address.

In cases where the services listed above were performed as subcontractors, or within a consortium or joint venture, this should be clearly stated, with an indication of the proportions of the services provided by each participant.

9.2.4. Project Team Organogram and Curricula Vitae (Please mark as Annexure D)

The bidder shall provide a description of the project team proposed to perform the services, supported by an organogram and a Curriculum Vitae (CV) for each of the project team members that should include the following information:

- Name, age, nationality and position in organisation;
- Educational qualifications;
- Category and duration of ECSA registration;
- Record of relevant overall experience;
- Number of years of relevant experience;
- Minimum of 2 x contactable references for Specialist Lead Engineering Advisor & Senior Engineers. These references should be provided by at least two (2) current or previous customers, clients or companies who can verify the relevant experience of the engineer.

Relevant experience shall be defined as expertise and activities related to the work described in Clause 6: Scope of Works. The project team CV's submitted as part of the bid will be scrutinised and evaluated to determine the years claimed as **relevant experience**.

The team below is deemed to be the minimum required, due to the large extent of services required across Western Cape Municipalities. A clear indication must be submitted in terms of the composition of the team with specific indication which team member will fulfil which specific role.

- 1 x Specialist Lead Engineering Advisor, who will be the main contact person for the lead service provider and take collective responsibility and accountability for all Advisory Services rendered. Minimum of 15 years relevant industry experience and minimum 7 years ECSA professional registration as a Pr.Eng.(Electrical Engineering).
- 3 x Senior Engineers from the lead service provider and / or sub consultants to support the project leader and who may take responsibility for a few municipalities / projects. Minimum of 10 years relevant industry experience and minimum 5 years ECSA professional registration as either Pr.Eng. or Pr.Tech.Eng.(Electrical Engineering).

- 6 x Engineers from the lead service provider and / or sub consultants to perform advisory services work as per the scope of works. Minimum of 5 years industry experience and registered as candidate with ECSA.

Project management related administration will be assumed to be included within the resources and expertise of the company.

9.2.5. Compulsory Returnable Bid Documents (Please mark as Annexure 1-5)

All the returnable Bid documents listed in Section 10.1 must be included in the Bidder's Bid submission.

10. ADJUDICATION OF PROPOSALS

The evaluation and adjudication of the tenders will be executed as set out below.

The evaluation process will be carried out in three (3) stages as follows:

- **Stage 1:** Compliance to submission of compulsory returnable bid documents.
- **Stage 2:** Evaluation in terms of Compulsory Conditions of Bid.
- **Stage 3:** Evaluation according to the Preferential Procurement Regulations 2022 and in terms of the Western Cape Governments interim strategy as it relates to preference points.

10.1. Stage 1: COMPULSORY RETURNABLE BID DOCUMENTS

The following documents are compulsory and must be submitted according to the table below. Failure to submit documents listed under Table 1 below may result in disqualification.

TABLE 1

Compulsory Returnable Bid Documents	
1. Annexure 1	Submission of duly completed offer signed by authorized signatory (Invitation to Bid - WCBD 1).
2. Annexure 2	Pricing Schedule (WCBD 3.1).
3. Annexure 3	Submission of duly completed WCBD 4 (Declaration of Interest, Declaration of Bidders Past SCM Practice, Certificate of Independent Bid Determination).

4. Annexure 4	Preference Points Claim Form completed and signed (WCBD 6.1). B-BBEE Certificate to be attached.
5. Annexure 5	Bidders' proposal and supporting documentation (As per section 9 above. Bidders to ensure that each annexure precisely addresses the points under each category):
Annexure A	• Company profile
Annexure B	• Proposed methodology and approach
Annexure C	• Company Experience record
Annexure D	• Project team organogram including Curricula Vitae

Bids that are non-compliant to any of these requirements may be disqualified. Only bids that are compliant will further be evaluated according to Stage 2 – Compulsory Conditions of Bid.

10.2. Stage 2: EVALUATION IN TERMS OF COMPULSORY CONDITIONS OF BID.

The total score that bidders can obtain for the compulsory conditions of the bid will be **100** points. The minimum threshold for these conditions will be **70 points**. Only those bidders that meet or exceed the minimum threshold will be evaluated at the third stage.

Criteria:	Weight	Scoring	Reference to proposal
Proposed Approach and Methodology	35		9.2.2. Annexure B
Quality of the proposed methodology and approach for Scope of Works - Understanding of all scope of works areas required. - Demonstrate electrical engineering / project management knowledge.	15	Poor demonstration of electrical engineering / project management knowledge: = 5 points Fair demonstration of electrical engineering / project management knowledge: = 8 points Good demonstration of electrical engineering / project management knowledge: = 12 points Excellent demonstration of electrical engineering / project management knowledge: = 15 points	

Criteria:	Weight	Scoring	Reference to proposal
Quality of the proposed methodology and approach for Scope of Works Insight as to what actions or activities are required with reference to the Scope of Works. Demonstrate practical experience.	20	Poor demonstration of actions or activities required from Scope of Works; demonstrating practical experience = 6. Fair demonstration of actions or activities required from Scope of Works; demonstrating practical experience = 16. Good demonstration of actions or activities required from Scope of Works; demonstrating practical experience = 20.	
Company Experience	20		9.2.3 Annexure C
Total company experience: Demonstrate specific professional energy and electrical advisory services experience related to the Scope of Works.	10	Verified 0 - 3 years of experience = 2 points Verified 4 - 6 years of experience = 4 points Verified 7 - 10 years of experience = 7 points Verified +10 years of experience = 10 points.	
Demonstrate experience within the geographic footprint of Western Cape Municipalities (local and district municipalities).	10	0 - 2 municipalities = 2 points 3 - 5 municipalities = 4 points 6 – 8 municipalities = 7 points 8+ municipalities = 10 points	
Experience of Project Team	45		9.2.4. Annexure D

Criteria:	Weight	Scoring	Reference to proposal
Length of relevant experience of Specialist Lead Engineering Advisor in professional energy projects and electrical advisory services, accompanied by two (2) verifiable references.	20	0 - 4 years = 0 points 5 - 9 years = 10 points 10 - 14 years = 15 points 15+ years = 20 points.	
Average length of relevant experience of 3 x Senior Engineers in energy projects and electrical advisory services, accompanied by two (2) verifiable references	15	0 - 3 years = 2 points 4 - 6 years = 7 points 7 - 10 years = 12 points 10+ years = 15 points.	
Average relevant experience of 6 x Engineers in energy projects and electrical advisory services, accompanied by two (2) verifiable references.	10	0 - 2 years = 2 points 3 - 4 years = 4 points 5 - 7 years = 7 points 8 years plus = 10 points.	

Bidders that have met or exceeded the minimum threshold of **70 points** for the compulsory conditions of bid will be evaluated and scored in terms the preferential procurement policy framework act (PPPFA) as indicated below. Any proposal therefore not meeting a minimum score of at least **70 points** will not proceed to the subsequent stage.

10.3. **Stage 3: Evaluation according to the preferential procurement regulations 2022 and in terms of the Western Cape governments interim strategy as it relates to preference points.**

All proposals that comply with the Compulsory requirements as specified at Stage 1 and meet or better the minimum score of 70 points for the compulsory conditions of bid will be evaluated further on the 80/20 preference point system for price and B-BBEE credentials according to the Preferential Procurement Policy Framework Act (PPPFA) and the regulations thereto, where 80 refers to price and 20 to B-BBEE status.

11. REGISTRATION: WESTERN CAPE SUPPLIER EVIDENCE BANK (WCSEB) & THE CENTRAL SUPPLIER DATABASE (CSD)

Service providers will be responsible to ensure that they are registered on the WCSEB as well as on the Central Supplier Database (CSD).

Enquiries regarding the registration on the WCSEB, may be referred to the Western Cape Supplier Helpdesk on 086 1225577/(021) 680 4666 or email wcseb@westerncape.gov.za.

Prospective bidders must be registered on the Central Supplier database (CSD) at the time of award.

All prospective bidders who are not registered on the Central Supplier Database are requested to self- register on www.csd.gov.za

Failure to be actively registered on the CSD by the time of award may result in the disqualification of the bid.

Registration on the database and tax compliance status will be verified at the time of the award. Bidders must have a compliant tax status to be awarded a contract.

12. BID SUBMISSION DETAILS & CLOSING DATE

Proposals must be placed in a sealed envelope with the request for proposals number on the front and the prospective service provider's name and address at the back. Proposals must be deposited in the blue tender / proposal box clearly marked "LOCAL GOVERNMENT" situated in the foyer / passage on the Ground Floor, No. 80 St Georges Mall, Cape Town, Waldorf Building **by 11h00 on or before 8 November 2024**. Failure to comply with the above requirement will render your bid as non-responsive. Please ensure that the proposal is clearly marked with the reference number **LG-03 2024-2025**.

The onus is on the service provider to ensure that the proposals are deposited in the correct bid box. Please ensure that the proposal is clearly marked with the reference number **LG-03 2024-2025**.

13. ENQUIRIES

Any further enquiries regarding the terms of reference should be directed to the Supply Chain Management unit within the Department of Local Government via email at lg.finance@westerncape.gov.za. The reference number: **LG-03 2024-2025** be stated in the

ANNEXURE I

Applicable advisory fees for consultants published the Department of Public Service and Administration (DPSA) – with effect 01 July 2020.



the dpsa

Department:
Public Service and Administration
REPUBLIC OF SOUTH AFRICA

Hourly Fee Rates For Consultants - With effect from 1 July 2020

In view of fiscal constraints, and after consultation with the Office of the Chief Procurement Officer, the Director-General: Public Service and Administration approved that the 2019 rates will apply in 2020

Salary Band	Average Total Package	Model A Short Term				Model B Long Term			
		Option A 1 All Overheads		Option A 2 Partial Overheads		Option B 1 All Overheads		Option B 2 Partial Overheads	
		A 1.1 Mark-up	A 1.2 No Mark-up	A 2.1 Mark-up	A 2.2 No Mark-up	B 1.1 Mark-up	B 1.2 No Mark-up	B 2.1 Mark-up	B 2.2 No Mark-up
16	1 997 628	3 995	3 076	3 436	2 637	None	None	None	None
15 / 16	1 766 953	3 534	2 721	3 039	2 332	2 915	2 244	2 509	1 926
15	1 536 278	3 073	2 366	2 642	2 028	2 535	1 951	2 182	1 675
14 / 15	1 398 142	2 796	2 153	2 405	1 846	2 307	1 776	1 985	1 524
14	1 302 509	2 605	2 006	2 240	1 719	2 149	1 654	1 850	1 420
13 / 14	1 201 602	2 403	1 850	2 067	1 586	1 983	1 526	1 706	1 310
13	1 092 286	2 185	1 682	1 879	1 442	1 802	1 387	1 551	1 191
12 / 13	995 007	1 642	1 264	1 413	1 085	1 473	1 134	1 264	965
12	897 728	1 481	1 140	1 275	979	1 329	1 023	1 140	871
11 / 12	827 611	1 366	1 051	1 175	902	1 225	943	1 051	803
11	757 494	1 250	962	1 076	826	1 121	864	962	735
10 / 11	707 501	1 167	899	1 005	771	1 047	807	899	686
10	657 508	973	750	835	638	921	710	789	611
9 / 10	598 985	886	683	761	581	839	647	719	557
6 to 8	395 779	586	451	503	384	554	427	475	368

How to determine the appropriate fee rate

1. Determine the consultancy option/model by applying the following criteria:

"Short Term" means less than 60 consulting days

"Long Term" means more than 60 consulting days

"All Overheads" means consultant provides all overheads e.g., office, parking, telephone

"Partial Overheads" means department provides some overheads e.g. office, parking, telephone

"Mark-up" provides for company profit margin - service normally provided by consulting company

"No Mark-up" service normally provided by individuals or NGOs

2. Determine the appropriate salary band based on the level of work that is required e.g., use job evaluation to determine the level of work - Salary band 13 represents the level of a Director in the public service, 14 a Chief Director, 15 a DDG and 16 a DG.

3. The hourly fee rate should be read where the consultancy option/model intersects with the salary band.

4. Fee rates exclude operational/project expenditure e.g., travelling, hotel accommodation, parking, travel and subsistence allowance.

5. Value Added Tax is excluded from calculating hourly fee rates.

Note - The Guide on Hourly Fee Rates for Consultants and the latest Fee Rates are available at the following link
http://www.dpsa.gov.za/dpsa2g/consultant_fees.asp

WCBD 3.1: PRICING SCHEDULE

NAME OF BIDDER:		BID NO.:	LG-03 2024-2025
CLOSING TIME:	11:00	CLOSING DATE:	8 November 2024
VALIDITY PERIOD:	60 Days		
APPOINTMENT OF A PROFESSIONAL SERVICE PROVIDER TO OFFER ENERGY AND ELECTRICAL ADVISORY SERVICES TO WESTERN CAPE MUNICIPALITIES ON AN AS NEEDED BASIS FOR THE PERIOD ENDING 31 MARCH 2026			

Table 1: SW

SCOPE OF WORKS			CONSULTANT FEES AND HOURS								
Item	Description	Deliverable Description (for pricing purpose)	Specialist Lead Engineering Advisor (Rate- Excl Vat)	Hrs	Senior Engineer (Rate- Excl Vat)	Hrs	Engineer (Rate- Excl Vat)	Hrs	Administration (Rate- Excl Vat)	Hrs	Total Cost (Excl Vat)
01	Cost-Benefit Analysis	Produce a cost-benefit analysis report per project									
02	Regulatory Compliance	Develop a regulatory compliance report									
03	Municipal Energy Policy Development	Produce Municipal Energy Policy Input Document									
04	Master & Energy Plans	Develop, review and standardise master & energy plans across Western Cape municipalities									

SCOPE OF WORKS			CONSULTANT FEES AND HOURS								
Item	Description	Deliverable Description (for pricing purpose)	Specialist Lead Engineering Advisor (Rate- Excl Vat)	Hrs	Senior Engineer (Rate- Excl Vat)	Hrs	Engineer (Rate- Excl Vat)	Hrs	Administration (Rate- Excl Vat)	Hrs	Total Cost (Excl Vat)
05	Feasibility of Renewable Energy Integration	Develop feasibility report for integration of renewable energy sources.									
06	Project Management	Provide project management services from project inception to close out.									
07	Procurement	Drafting of technical specifications, evaluations and prepare procurement documentation.									
08	Expert Advisory Services	Provide specialist / expert advice related to energy and engineering design.									

SCOPE OF WORKS			CONSULTANT FEES AND HOURS								
Item	Description	Deliverable Description (for pricing purpose)	Specialist Lead Engineering Advisor (Rate- Excl Vat)	Hrs	Senior Engineer (Rate- Excl Vat)	Hrs	Engineer (Rate- Excl Vat)	Hrs	Administration (Rate- Excl Vat)	Hrs	Total Cost (Excl Vat)
09	Emerging Technology	Advisory services on emerging technologies in the energy sector and assess their applicability to municipal infrastructure projects.									
10	Training and Education	Provide energy related training session to municipal and provincial staff (8 delegates, 2 days).									
11	Funding mechanisms	Produce an energy funding strategy Report, complete funding applications for municipalities for									

SCOPE OF WORKS			CONSULTANT FEES AND HOURS								
Item	Description	Deliverable Description (for pricing purpose)	Specialist Lead Engineering Advisor (Rate- Excl Vat)	Hrs	Senior Engineer (Rate- Excl Vat)	Hrs	Engineer (Rate- Excl Vat)	Hrs	Administration (Rate- Excl Vat)	Hrs	Total Cost (Excl Vat)
		energy-related grants.									
12	Public-Private Partnerships (PPPs)	Provide a feasibility report for the municipality to engage in a public-private partnership to implement a 10MW solar PV energy project.									
13	Disaster Management Assessment	Do an assessment during a disaster and provide continuity planning report.									
14	Condition Performance Assessments	/ Provide a MV/LV distribution electrical asset condition assessment and report.									

SCOPE OF WORKS			CONSULTANT FEES AND HOURS								
Item	Description	Deliverable Description (for pricing purpose)	Specialist Lead Engineering Advisor (Rate- Excl Vat)	Hrs	Senior Engineer (Rate- Excl Vat)	Hrs	Engineer (Rate- Excl Vat)	Hrs	Administration (Rate- Excl Vat)	Hrs	Total Cost (Excl Vat)
15	Energy Assessments and Audits	Conduct an energy audit to evaluate the energy consumption patterns for municipal infrastructure.									
16	Cost of Supply Studies	Review and report on Cost of Supply study related to electricity / energy tariffs.									

TOTAL FEES - SCOPE OF WORKS (EXCL VAT)
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TABLE 2: FINAL BID PRICE FOR EVALUATION PURPOSES ONLY.

SUBTOTAL FEES - SCOPE OF WORKS (EXCL VAT)
VAT @ 15 %
TOTAL BID PRICE



PROVINCIAL GOVERNMENT WESTERN CAPE

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

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

6. Definitions

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

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

If you know of any corrupt, fraudulent or collusive actions in the Institution, please report it by calling the National Hotline 0800 701 701

This form must be completed annually. Should the information herein declared change in the course of the year or before the next renewal or in relation to any bid, quotation or contract, it is the entity's responsibility to advise the Institution in writing of the change in such details.

“business interest” means -

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

“Consortium or Joint Venture” means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;

“Controlling interest” means, the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise;

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

Any person who directly or indirectly -

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

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

If you know of any corrupt, fraudulent or collusive actions in the Institution, please report it by calling the National Hotline 0800 701 701

This form must be completed annually. Should the information herein declared change in the course of the year or before the next renewal or in relation to any bid, quotation or contract, it is the entity's responsibility to advise the Institution in writing of the change in such details.

“employee”, in relation to –

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

“entity” means any -

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

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

“Family member” means a person's -

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

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

“Institution” means –

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

“Provincial Government Western Cape (PGWC)” means

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

“RWOEE” means -

Remunerative Work Outside of the Employee's Employment

“spouse” means a person's -

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

If you know of any corrupt, fraudulent or collusive actions in the Institution, please report it by calling the National Hotline 0800 701 701

This form must be completed annually. Should the information herein declared change in the course of the year or before the next renewal or in relation to any bid, quotation or contract, it is the entity's responsibility to advise the Institution in writing of the change in such details.

7. Regulation 13(c) of the Public Service Regulations (PSR) 2016, effective 1 February 2017, prohibits any employee from conducting business with an organ of state, or holding a directorship in a public or private company doing business with an organ of state unless the employee is a director (in an official capacity) of a company listed in schedules 2 and 3 of the Public Finance Management Act.
 - a) Therefore, by 31 January 2017 all employees who are conducting business with an organ of state should either have:
 - (i) resigned as an employee of the government institution or;
 - (ii) cease conducting business with an organ of state or;
 - (iii) resign as a director/shareholder/owner/member of an entity that conducts business with an organ of state.
8. Any legal person, or their family members, may make an offer or offers in terms of this invitation to bid. In view of potential conflict of interest, in the event that the resulting bid, or part thereof, be awarded to family members of persons employed by an organ of state, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where the bidder is employed by the Institution.
9. The bid of any bidder may be disregarded if that bidder or any of its directors abused the institution's supply chain management system; committed fraud or any other improper conduct in relation to such system; disclosure is found not to be true and complete; or failed to perform on any previous contract.
10. Section 4(1)(b)(iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging). Collusive bidding is a per se prohibition meaning that it cannot be justified under any grounds.
11. Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorises accounting officers and accounting authorities to:
 - a) disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b) cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
12. Communication between partners in a joint venture or consortium will not be construed as collusive bidding.

If you know of any corrupt, fraudulent or collusive actions in the Institution, please report it by calling the National Hotline 0800 701 701

This form must be completed annually. Should the information herein declared change in the course of the year or before the next renewal or in relation to any bid, quotation or contract, it is the entity's responsibility to advise the Institution in writing of the change in such details.

SECTION B: DECLARATION OF THE BIDDER'S INTEREST

The supply chain management system of an institution must, irrespective of the procurement process followed, prohibit any award to an employee of the state, who either individually or as a director of a public or private company or a member of a close corporation, seek to conduct business with the WCG, unless such employee is in an official capacity a director of a company listed in Schedule 2 or 3 of the PFMA as prescribed by the Public Service Regulation 13(c).

Furthermore, an employee employed by an organ of state conducting remunerative work outside of the employee's employment should first obtain the necessary approval by the delegated authority (RWOEE), failure to submit proof of such authority, where applicable, may result in disciplinary action.

B1.	Are any persons listed in Table A identified on the CSD as employees of an organ of state? (If yes, refer to Public Service Circular EIM 1/2016 to exercise the listed actions)	NO	YES
B2.	Are any employees of the entity also employees of an organ of state? (If yes complete Table B and attach their approved "RWOEE")	NO	YES
B3.	Are any family members of the persons listed in Table A employees of an organ of state? (If yes complete Table B)	NO	YES

TABLE B

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

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

If you know of any corrupt, fraudulent or collusive actions in the Institution, please report it by calling the National Hotline 0800 701 701

This form must be completed annually. Should the information herein declared change in the course of the year or before the next renewal or in relation to any bid, quotation or contract, it is the entity's responsibility to advise the Institution in writing of the change in such details.

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

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

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

C2. TABLE C

Complete the below table to the maximum of the last 5 contracts.

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

If you know of any corrupt, fraudulent or collusive actions in the Institution, please report it by calling the National Hotline 0800 701 701

This form must be completed annually. Should the information herein declared change in the course of the year or before the next renewal or in relation to any bid, quotation or contract, it is the entity's responsibility to advise the Institution in writing of the change in such details.

SECTION D: DULY AUTHORISED REPRESENTATIVE TO DEPOSE TO AFFIDAVIT

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

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

DULY AUTHORISED REPRESENTATIVE'S SIGNATURE

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

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

.....
SIGNATURE FULL NAMES Commissioner of Oaths

Designation (rank) ex officio: Republic of South Africa

Date:..... Place

Business Address:

If you know of any corrupt, fraudulent or collusive actions in the Institution, please report it by calling the National Hotline 0800 701 701

This form must be completed annually. Should the information herein declared change in the course of the year or before the next renewal or in relation to any bid, quotation or contract, it is the entity's responsibility to advise the Institution in writing of the change in such details.

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

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

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

1. DEFINITIONS

- 1.1 **"acceptable tender"** means any tender which, in all respects, complies with the specifications and conditions of tender as set out in the tender document.
- 1.2 **"affidavit"** is a type of verified statement or showing, or in other words, it contains a verification, meaning it is under oath or penalty of perjury, and this serves as evidence to its veracity and is required for court proceedings.
- 1.3 **"all applicable taxes"** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- 1.4 **"B-BBEE"** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- 1.5 **"B-BBEE status level of contributor"** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- 1.6 **"bid"** means a written offer on the official bid documents or invitation of price quotations and "tender" is the act of bidding /tendering;
- 1.7 **"Code of Good Practice"** means the generic codes or the sector codes as the case may be;
- 1.8 **"consortium or joint venture"** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
- 1.9 **"contract"** means the agreement that results from the acceptance of a bid by an organ of state;

- 1.10 **"EME"** is an Exempted Micro Enterprise with an annual total revenue of R10 million or less.
- 1.11 **"Firm price"** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- 1.12 **"Large Enterprise"** is any enterprise with an annual total revenue above R50 million;
- 1.13 **"non-firm prices"** means all prices other than "firm" prices;
- 1.14 **"person"** includes a juristic person;
- 1.15 **"price" means an amount of money tendered for goods or services, and** includes all applicable taxes less all unconditional discounts;
- 1.16 **"proof of B-BBEE status level contributor"** means-
- (a) The B-BBEE status level certificate issued by an authorized body or person;
 - (b) A sworn affidavit as prescribed in terms of the B-BBEE Codes of Good Practice; or
 - (c) Any other requirement prescribed in terms of the Broad- Based Black Economic Empowerment Act.
- 1.17 **QSE** is a Qualifying Small Enterprise with an annual total revenue between R10 million and R50 million;
- 1.18 **"rand value"** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- 1.19 **"sub-contract"** means the primary contractor's assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract.
- 1.20 **"tender"** means a written offer in the form determined by an organ of state in response to an invitation to provide or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- 1.21 **"tender for income-generating contracts"** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions;
- 1.22 **"the Act"** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- 1.23 **"the Regulations"** means the Preferential Procurement Regulations, 2022;

- 1.24 **“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 11 October 2013;
- 1.25 **“trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- 1.26 **“trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

2. GENERAL CONDITIONS

- 2.1 The following preference point systems are applicable to all bids:
- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
 - the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).
- 2.2 Preference point system for this bid:
- (a) The value of this bid is estimated to exceed/not exceed R50 000 000 (all applicable taxes included) and therefore the preference point system shall be applicable; or
 - (b) Either the 80/20 or 90/10 preference point system will be applicable to this tender
(delete whichever is not applicable for this tender).
- 2.3 Preference points for this bid (even in the case of a tender for income-generating contracts) shall be awarded for:
- (a) Price; and
 - (b) B-BBEE Status Level of Contribution.
- 2.4 The maximum points for this bid are allocated as follows:

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

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

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

3. ADJUDICATION USING A POINT SYSTEM

- 3.1 Subject to Section 2 (1) (f) of the Preferential Procurement Policy Framework Act, 2000, the **bidder obtaining the highest number of total points** will be awarded the contract.
- 3.2 A tenderer must submit proof of its B-BBEE status level of contributor in order to claim points for B-BBEE.
- 3.3 A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE will not be disqualified but will only score:
- (a) points out of 80 for price; and
 - (b) 0 points out of 20 for B-BBEE
- 3.4 Points scored must be rounded off to the nearest 2 decimal places.
- 3.5 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
- 3.6 As per section 2 (1) (f) of the Preferential Procurement Policy Framework Act, 2000, the contract may be awarded to a bidder other than the one scoring the highest number of total points based on objective criteria in addition to those contemplated in paragraph (d) and (e) of the Act that justifies the award to another tenderer provided that it has been stipulated upfront in the tendering conditions.
- 3.7 Should two or more bids be equal in all respects; the award shall be decided by the drawing of lots.

4. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

4.1 POINTS AWARDED FOR PRICE

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

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

80/20	or	90/10
$P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$	or	$P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$

Where

P_s = Points scored for price of bid under consideration

P_t = Price of tender under consideration

$P_{\min}$ = Price of lowest acceptable tender

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

5.1 POINTS AWARDED FOR PRICE

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

80/20 or 90/10

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmax = Price of highest acceptable tender

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

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

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

- 6.2 An **EME** must submit a valid, originally certified affidavit confirming annual turnover and level of black ownership or an affidavit issued by Companies Intellectual Property Commission
- 6.3 A **QSE that is less than 51 per cent (50% or less) black owned** must be verified in terms of the QSE scorecard issued via Government Gazette and submit a valid, original or a legible certified copy of a B-BBEE Verification Certificate issued by SANAS.
- 6.4 A **QSE that is at least 51 per cent black owned (51% or higher)** must submit a valid, originally certified affidavit confirming turnover and level of black ownership as well as declare its empowering status or an affidavit issued by Companies Intellectual Property Commission.

- 6.5 A **large enterprise** must submit a valid, original or originally certified copy of a B-BBEE Verification Certificate issued by a verification agency accredited by SANAS.
- 6.6 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 6.7 A trust, consortium or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE status level verification certificate for every separate tender.
- 6.8 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.

7. BID DECLARATION

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

8. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPH 6

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

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 6.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or an affidavit confirming annual total revenue and level of black ownership in terms of the relevant sector code applicable to the tender.

9. SUB-CONTRACTING

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

- 9.1.1 If yes, indicate:

(i) what percentage of the contract will be subcontracted?%

(ii) the name of the sub-contractor?

(iii) the B-BBEE status level of the sub-contractor?

(iv) whether the sub-contractor is an EME or QSE? **YES/NO** *(delete which is not applicable)*

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

10. DECLARATION WITH REGARD TO COMPANY/FIRM

10.1 Name of company/ entity:

10.2 VAT registration number:

10.3 Company Registration number:

10.4 TYPE OF COMPANY/ FIRM

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

[SELECT APPLICABLE ONE]

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

- (a) The Western Cape Government reserves the right to audit the B-BBEE status claim submitted by the bidder.
- (b) As set out in Section 130 of the B-BBEE Act as amended, any misrepresentation constitutes a criminal offence. A person commits an offence if that person knowingly:
 - (i) misrepresents or attempts to misrepresent the B-BBEE status of an enterprise;
 - (ii) provides false information or misrepresents information to a B-BBEE Verification Professional in order to secure a particular B-BBEE status or any benefit associated with compliance to the B-BBEE Act;
 - (iii) provides false information or misrepresents information relevant to assessing the B-BBEE status of an enterprise to any organ of state or public entity; or
 - (iv) engages in a fronting practice.
- (c) If a B-BBEE verification professional or any procurement officer or other official of an organ of state or public entity becomes aware of the commission of, or any attempt to commit any offence referred to in paragraph 10.5 (a) above will be reported to an appropriate law enforcement agency for investigation.

- (d) Any person convicted of an offence by a court is liable in the case of contravention of 10.5 (b) to a fine or to imprisonment for a period not exceeding 10 years or to both a fine and such imprisonment or, if the convicted person is not a natural person to a fine not exceeding 10 per cent of its annual turnover.
- (e) The purchaser may, if it becomes aware that a bidder may have obtained its B-BBEE status level of contribution on a fraudulent basis, investigate the matter. Should the investigation warrant a restriction be imposed, this will be referred to the National Treasury for investigation, processing and imposing the restriction on the National Treasury's List of Restricted Suppliers. The bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, may be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the audi alteram partem (hear the other side) rule has been applied.
- (f) The purchaser may, in addition to any other remedy it may have –
 - (i) disqualify the person from the bidding process;
 - (ii) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (iii) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation; and
 - (iv) forward the matter for criminal prosecution.
- (g) The information furnished is true and correct.
- (h) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 2 of this form.

SIGNATURE(S) OF THE BIDDER(S):

DATE:

ADDRESS:

.....

WITNESSES:

1.

2.

THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT

July 2010

GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT
July 2010

NOTES

The purpose of this document is to:

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

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

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

TABLE OF CLAUSES

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7. Performance security
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32. Taxes and duties
33. National Industrial Participation Programme (NIPP)
34. Prohibition of restrictive practices

General Conditions of Contract

1. Definitions

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

RSA.

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

obligations of the supplier covered under the contract.

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

2. Application

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

3. General

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

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 Programme (NIP)	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.

Js General Conditions of Contract (revised July 2010)