



**employment & labour**

Department:  
Employment and Labour  
REPUBLIC OF SOUTH AFRICA

**REQUEST FOR BID**

**TCF 20: 2021/22**

**Appointment of a Service Provider for continuous auditing and monitoring for a period of (03) three years.**

**ISSUE DATE:**

07 January 2022

**CLOSING DATE AND TIME:**

04 February 2022 at 11H00am

**BRIEFING SESSION**

A non-compulsory briefing session will be held through Ms. Teams on 21 January 2022 at 10:00.

NB: The cut-off time to receive enquiries is **72 hours** before the closing date.

**ENQUIRIES**

[SCM.Enquiries@LABOUR.gov.za](mailto:SCM.Enquiries@LABOUR.gov.za)

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SBD 1

## PART A INVITATION TO BID

|                                                                                                                                                                       |                                                                                                            |                                |                                                                             |                               |                                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|--------------------------------|-----------------------------------------------------------------------------|-------------------------------|------------------------------------------------------------------------------------------------------|
| <b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (COMPENSATION FUND)</b>                                                                                      |                                                                                                            |                                |                                                                             |                               |                                                                                                      |
| BID NUMBER:                                                                                                                                                           | TCF 20:2021/22                                                                                             | CLOSING DATE: 04 February 2022 | CLOSING TIME:                                                               | 11:00 am                      |                                                                                                      |
| DESCRIPTION                                                                                                                                                           | Appointment of a Service Provider for continuous auditing and monitoring for a period of (03) three years. |                                |                                                                             |                               |                                                                                                      |
| <b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT</b>                                                                                             |                                                                                                            |                                |                                                                             |                               |                                                                                                      |
| 167 Thabo Sehume Street                                                                                                                                               |                                                                                                            |                                |                                                                             |                               |                                                                                                      |
| Delta Heights Building                                                                                                                                                |                                                                                                            |                                |                                                                             |                               |                                                                                                      |
| Pretoria CBD                                                                                                                                                          |                                                                                                            |                                |                                                                             |                               |                                                                                                      |
| 0001                                                                                                                                                                  |                                                                                                            |                                |                                                                             |                               |                                                                                                      |
| <b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>                                                                                                                 |                                                                                                            |                                | <b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>                              |                               |                                                                                                      |
| CONTACT PERSON                                                                                                                                                        |                                                                                                            |                                | CONTACT PERSON                                                              |                               |                                                                                                      |
| TELEPHONE NUMBER                                                                                                                                                      | 012 406 5712                                                                                               |                                | TELEPHONE NUMBER                                                            |                               |                                                                                                      |
| FACSIMILE NUMBER                                                                                                                                                      |                                                                                                            |                                | FACSIMILE NUMBER                                                            |                               |                                                                                                      |
| E-MAIL ADDRESS                                                                                                                                                        | SCM.enquiries@labour.gov.za                                                                                |                                | E-MAIL ADDRESS                                                              |                               |                                                                                                      |
| <b>SUPPLIER INFORMATION</b>                                                                                                                                           |                                                                                                            |                                |                                                                             |                               |                                                                                                      |
| NAME OF BIDDER                                                                                                                                                        |                                                                                                            |                                |                                                                             |                               |                                                                                                      |
| POSTAL ADDRESS                                                                                                                                                        |                                                                                                            |                                |                                                                             |                               |                                                                                                      |
| STREET ADDRESS                                                                                                                                                        |                                                                                                            |                                |                                                                             |                               |                                                                                                      |
| TELEPHONE NUMBER                                                                                                                                                      | CODE                                                                                                       |                                | NUMBER                                                                      |                               |                                                                                                      |
| CELLPHONE NUMBER                                                                                                                                                      |                                                                                                            |                                |                                                                             |                               |                                                                                                      |
| FACSIMILE NUMBER                                                                                                                                                      | CODE                                                                                                       |                                | NUMBER                                                                      |                               |                                                                                                      |
| E-MAIL ADDRESS                                                                                                                                                        |                                                                                                            |                                |                                                                             |                               |                                                                                                      |
| VAT REGISTRATION NUMBER                                                                                                                                               |                                                                                                            |                                |                                                                             |                               |                                                                                                      |
| SUPPLIER COMPLIANCE STATUS                                                                                                                                            | TAX COMPLIANCE SYSTEM PIN:                                                                                 |                                | OR                                                                          | CENTRAL SUPPLIER DATABASE No: | MAAA                                                                                                 |
| B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE                                                                                                                          | TICK APPLICABLE BOX]<br><br><input type="checkbox"/> Yes <input type="checkbox"/> No                       |                                | B-BBEE STATUS LEVEL SWORN AFFIDAVIT                                         |                               | [TICK APPLICABLE BOX]<br><br><input type="checkbox"/> Yes <input type="checkbox"/> No                |
| <b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b> |                                                                                                            |                                |                                                                             |                               |                                                                                                      |
| 1. ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?                                                                      | <input type="checkbox"/> Yes <input type="checkbox"/> No<br>[IF YES ENCLOSE PROOF]                         |                                | 2. ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED? |                               | <input type="checkbox"/> Yes <input type="checkbox"/> No<br>[IF YES, ANSWER THE QUESTIONNAIRE BELOW] |
| <b>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>                                                                                                                     |                                                                                                            |                                |                                                                             |                               |                                                                                                      |

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

|                                                                                                                                                                                                                                                |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1. BID SUBMISSION:</b>                                                                                                                                                                                                                      |
| 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, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT. |
| 1.4. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).                                                                                                                                                |
| <b>2. TAX COMPLIANCE REQUIREMENTS</b>                                                                                                                                                                                                          |
| 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.                                                                                                                                                                                 |
| 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.                                                              |
| 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.                                                                                                                         |
| 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.                                                                                                                                                                   |
| 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.                                                                                             |
| 2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.                                                                                                          |
| 2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."                        |

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

SIGNATURE OF BIDDER: .....

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

DATE: .....

**TERMS OF REFERENCE**  
**FOR**  
**CONTINUOUS AUDITING AND MONITORING**  
  
**DEPARTMENT OF EMPLOYMENT & LABOUR**



## CONTINUOUS AUDITING AND MONITORING

### 1. PURPOSE

The purpose of this TOR is to obtain proposals to appoint a service provider to implement server technology that helps build a centralized platform for collaborative team-based work, automated data extraction and blending with IT-trusted connections, continuous auditing and monitoring programs to analyse massive data feeds.

The continuous auditing tool will assist Internal Audit to provide real time assurance and will also serve as monitoring tool to provide management with the ability to schedule the analytics to run as per management's request. Auditors and Management will have the flexibility to choose from every couple of minutes, daily (any day) weekly, monthly, yearly and at any time to run the data downloads which are scheduled as per IT's policies (usually over night or over non-peak hours).

### 2. BACKGROUND

The Compensation Fund herein under referred to as the Fund, is a public entity of the Department of Employment and Labour. The Fund administers the Compensation for Occupational injuries and Diseases Act no. 130/1993 as amended by the COIDA 61/1997. The main objective of the Act is to provide compensation for disablement caused by occupational injuries or diseases sustained or contracted by employees, or for death resulting from such injuries or diseases and provide for matters connected therewith.

As the Fund is implementing the new system, there is a need to implement the real time technology that will help the organization in detecting and reducing the system and data deficiencies in real time and provide exceptions that have material impact on the organization.

Standard 2130 states that internal audit activity must assist the organisation in maintaining effective controls by evaluating their effectiveness and efficiency and by promoting continuous improvement.

## CONTINUOUS AUDITING AND MONITORING

To keep up with technology, Internal audit would like to procure the continuous auditing and monitoring tool to supplement management monitoring controls in the following main areas namely financial controls, system controls and security controls. Audits will be conducted in those areas using the continuous auditing tool (using a series of analytic tests) and after that, the continuous control assessment application tests will be turned over to management in those respective area to monitor those controls on monthly basis or at a frequency determined by management.

Continuous Auditing and Continuous Monitoring tool will help the Compensation Fund (CF) in detecting compliance, business processes, accounting practices and risks associated with an organization's financial and operational environment on an ongoing basis. This will also strengthen the monitoring controls of the key processes within CF and will contribute to the improvement of the control environment and the audit outcome.

The continuous auditing and monitoring tool will be connected to the right data and will continuously assess material risk to provide 100% coverage 24/7 for critical Enterprise Resource Planning (ERP) processes and enable management to gain immediate visibility into transactional data that is critical to the organization.

Internal Audit has identified the following areas business units to be prioritized for continuous auditing and monitoring:

- Processing of claims and payments;
- Payment of Medical Aid;
- Pre-authorisation of medical benefits;
- Financial controls; and
- Information Technology controls

The following control focus points should be prioritized for the automation using the tool:

- **Financial controls** eg controls to verify the validity of payment recipients, matching banking details to valid claimants, identification of invalid claims, checking duplicate payments/invoices.

## CONTINUOUS AUDITING AND MONITORING

- **System controls** verify that system controls are functioning as intended for end to end business processing for claims and medical benefits.eg Segregation of duties, using the continuous auditing tool to compare individual transaction rule based criteria, reviewing all transactions to ensure that individuals are not performing incompatible duties and Continuous transaction and activity monitoring based on the business areas identified.
- **Security Controls-** eg System access logs-verify that CF systems are only accessed by authorized users
- **Fraud, waste and abuse identification controls** - Investigation of potentially inappropriate activities that have been detected, Perform a wide variety of investigative and analytical operations
- **Continuous risk assessment for development of risk based internal audit plan-** Continuous risk monitoring, including the monitoring of key performance indicators (KPIs)

### 3. SCOPE OF WORK

The tool will be installed on a server in the customer's environment and connects to all system data bases using any other connectivity tool (DirectLink license for SAP) allowing for direct independent access for audit and no need to go through IT to ask for data or reports.

**3.1 The continuous auditing and monitoring tool should have the following features:**

| Features for the tool | Description                                                                                                                                                                                                             |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Sustainable Analytics | Sustainability analytics that help the organisation to reduce resource use and anticipate future changes in supply, demand, and price, so they can hedge their resource purchases and lock in supplies at lower prices. |

## CONTINUOUS AUDITING AND MONITORING

|                                                |                                                                                                                                                                                                                |
|------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Analytics Performance</b>                   | Continuous auditing and monitoring tool should deliver performance by allowing CF's system to scale as the usage grows.                                                                                        |
| <b>Trusted IT Data Connections</b>             | The tool should serve as a trusted pipeline to the CF source data and connections and test entire datasets during non- production hours.                                                                       |
| <b>Continuous and Automated Testing</b>        | The tool should enable complex schedules for continuous testing to be accommodated easily and handled effortlessly by the server                                                                               |
| <b>Automate Testing and Reduce Outsourcing</b> | The tool should allow automated testing and reduce the cost for outsourcing (reduce Audit co sourcing). This should allow CF to take control of the data within the organization.                              |
| <b>Visualizations</b>                          | The tool should visualize and detect patterns of the data by creating interactive visualizations and dashboards that can be shared with stakeholders.                                                          |
| <b>IT Data Analytics</b>                       | The tool should enable data migration and should test IT controls. Compare data when migrating from a legacy system to the new one. Automate IT control testing like logical access and segregation of duties. |
| <b>Independent. Provable. Repeatable</b>       | The entire data set should be protected in read-only format. Every analytic step should be recorded to provide assurance and repeatability.                                                                    |

## **CONTINUOUS AUDITING AND MONITORING**

**3.2 The tool will be accompanied by the service of a Data Analyst or Robotic Enterprise Professional to conduct the following but not restricted to:**

- Conducting readiness assessment- analyze the readiness of data from CF systems to obtain understanding of the business rules and different data sets.
- Developing information analysis and design- Develop solution blue print using a range of diagnostic, predictive and prescriptive analytics scripts based on the understanding of data sets.
- Implementation and configuration- Setting up implementation and configuration of audit analytics integrating various data sources.
- Create a data visualization which captures the risks and exceptions to be published to auditors for continuous auditing and to management for continuous monitoring.
- Development of standard operating procedures for team setup and exception management.
- Training and development for all key users.
- Handover of the tool to internal audit team.
- Support and maintenance and any other enhancements.

**3.3 The following are the focus areas to be prioritized for continuous auditing and monitoring:**

- Processing of claims and payments;
- Payment of Medical Claims;
- Pre-authorisation of medical benefits;
- Financial controls; and
- Information Technology controls.

**3.4 The following are possible scripts that can be developed but not limited to:**

- Locate errors and potential fraud by comparing and analysing files according to end-user criteria;
- Identify trends, pinpoint exceptions, and highlight potential areas of concern;
- Recalculate and verify balances;

## CONTINUOUS AUDITING AND MONITORING

- Identify control issues;
- Ensure compliance with standards;
- Age and analyse accounts payable or any other time-sensitive transactions;
- Recover expenses or lost revenues by testing for duplicate payments, gaps in invoice numbers, or unbilled services;
- Test for unauthorized employee/supplier relationships;
- Cleanse and normalize data; and
- Perform a wide variety of investigative and analytical operations.

### 3.5 Data Security

The service provider will be expected to:

- Ensure adherence to the Protection of Personal Information (POPI) ACT.
- Sign a non-disclosure agreement with the CF.
- Not share information of the Fund with anyone.
- Not share granted access to the CF systems with anyone.
- Ensure compliance with departmental policies, processes and standards.

## 4. DELIVERABLES

The main aim of the continuous auditing and monitoring tool is to provide server technology that helps build a centralized platform for collaborative team-based work and automated data extraction to analyse data feeds and find anomalies that can threaten the organisation.

## 5. REQUIRED EXPERTISE AND SKILLS

### 5.1 The Service Provider (Bidder)

Demonstrate previous experience in the relevant fields by providing comprehensive case studies of similar work done in the past 5 years and a list of 5 references of the departments or any private sectors that the service was provided.

## CONTINUOUS AUDITING AND MONITORING

### 5.2. The Service Provider Staff

The service provider should possess relevant professional qualification and applied knowledge of Information Technology, SAP, data analytics and/or robotic. Copies of the qualifications of the team members must be included as proof and foreign acquired qualifications should be endorsed by the South African Qualification Authority (SAQA).

### 6. PROJECT DURATION

The configuration project is expected to be completed within six (6) months after signing of the contract and the maintenance and support is expected to be for a period of 3 years.

The successful bidder will be required to present the final report to internal audit and Business on how the process will unfold.

### 7. PAYMENT OF SERVICES

The service provider will be paid for the service rendered as per the agreed project plan and the pricing proposal (per project plan and agreed upon milestones).

### 8. MANAGEMENT OF THE ASSIGNMENT

The service provider will furnish satisfactory evidence of its capability to provide professional and timely services. To meet this requirement, the service provider must:

8.1 Provide the proof that the platform will work in our network infrastructure.

8.2 Provide proof that the team have expertise to perform that task.

8.3 Provide the assurance that the confidentiality of data will be secured all the time.

8.4 Provide 24/7 support and maintenance.

8.5 Provide skills and training to all the users of the services.

## CONTINUOUS AUDITING AND MONITORING

### 9. PRICING PROPOSAL

| Activities                                                       | Estimated Expenditure                                                   |
|------------------------------------------------------------------|-------------------------------------------------------------------------|
| Required resources for the configuration of the tool             | Project Manager X1 = R<br>SAP Specialist X1 = R<br>Data Analysts X3 = R |
| Continuous Auditing and Monitoring tool and configuration.       | R                                                                       |
| Maintenance and Support of the developed solutions/applications. | R                                                                       |
| Disbursements                                                    | R                                                                       |
| <b>Total tender price over 3 years (including VAT)</b>           | R                                                                       |
| <b>Grand Total over 3 years (including VAT)</b>                  | R                                                                       |

The bid price (based on hourly rates) must be quoted in South African currency and must include value added tax. Bidders must provide a clear pricing schedule detailing the cost of providing the service (including disbursement charges).

- The bidder must complete the price proposal form, which must be for the contract period. The price should be the overall ceiling cost including travelling and subsistence disbursements as well as the maintenance and support of the continuous auditing and monitoring tool.
- The quotation value must represent the total cost on the project which will be payable by the Compensation Fund to the appointed service provider upon satisfactory work delivery, and as per agreed conditions that will be stipulated in the SLA.

The service provider will be remunerated at the rates in line with the "Guide on Hourly Fee Rates for Consultants", as issued by the Department of Public Service and Administration (DPSA).

## CONTINUOUS AUDITING AND MONITORING

- The above mentioned rates will therefore be the maximum acceptable rates and failure to comply herein will lead to automatic disqualification.

**Note:** Price including VAT, for the project as a whole shall not be exceeded.

### 10. BID SUBMISSION REQUIREMENTS

The bidder has to submit a bid response documentation pack and it must be delivered at the correct physical or postal address and within the stipulated date and time as specified in the "Invitation to Bid" cover page, and the bidders are expected to submit the following:

- Copies in two separate batches (1) Technical (2) Price proposal
- One original, 3 exact copies of the original technical and price proposal

### 11. BID EVALUATION

The bid evaluation process consists of several stages that are applicable according to the nature of the bid as defined in the table below.

| Stage   | Description                                   | Applicable for this bid |
|---------|-----------------------------------------------|-------------------------|
| Phase 1 | Administrative Pre-Qualification Requirements | Yes                     |
| Phase 2 | Technical Mandatory Requirements              | Yes                     |
| Phase 3 | Evaluation on Functionality                   | Yes                     |
| Phase 4 | Presentation                                  | Yes                     |
| Phase 5 | Evaluation on Price and BBBEE                 | Yes                     |

The bidder must qualify for each stage to be eligible to proceed to the next stage of the evaluation.

## CONTINUOUS AUDITING AND MONITORING

### PHASE 1: ADMINISTRATIVE PRE-QUALIFICATION REQUIREMENTS

If the Bidder failed to comply with any of the administrative pre-qualification requirements, or if Compensation Fund is unable to verify whether the pre-qualification requirements are met, then Compensation Fund reserves the right to –

- (a) Reject the bid and not evaluate it, or
- (b) Accept the bid for evaluation, on condition that the Bidder must submit within 7 (seven) days any supplementary information to achieve full compliance, provided that the supplementary information is administrative and not substantive in nature.
- (c) All bids will be measured against the administrative pre-qualification requirements. Only bids that comply with the criteria mentioned below will be considered for further evaluation.
- (d) The Service providers must be registered with the Central Supplier Database.
- (e) Provide Tax Compliance Status- Pin issued by SARS
- (f) The service provider must submit a valid B-BBEE certificate or a valid Sworn Affidavit attested by the Commissioner of Oath.
- (g) Valid COIDA Letter of Good Standing/ Valid tendering letter.
- (h) Completed and Signed Standard Bidding Documents (SBD forms)

**NB: Please note that failure to provide any of the above requirements within (7) days after the closing date will lead to automatic disqualification of the service provider's bid proposal.**

### PHASE 2: TECHNICAL MANDATORY REQUIREMENTS

- a) The service provider's personnel/staff must be SAP certified.

## CONTINUOUS AUDITING AND MONITORING

| Compliance                                                                                             | Comply Yes or No | Reference (page number) |
|--------------------------------------------------------------------------------------------------------|------------------|-------------------------|
| The service provider's personnel/staff must be SAP certified. Proof of SAP certified must be attached. |                  |                         |

Please note that failure to provide any of the technical mandatory documents/requirements will lead to automatic disqualification of the service provider's bid.

### PHASE 3: EVALUATION ON FUNCTIONALITY

- a) Service provider will be required to submit a detailed project plan highlighting the phases of the project and detailed cost breakdown of the project.
- b) An evaluation panel will be established by the Fund, made up of members of the Bid Evaluation Committee. Bids will be evaluated strictly according to the bid evaluation criteria set out below.
- c) A minimum threshold of 65% for the technical elements must be scored; otherwise the bid will be regarded as non-responsive and be disqualified. Bids that do not meet or better the technical threshold score of 65 % will not be evaluated further.
- d) In respect to evaluation matrix, prospective service bidders will be rated from 1 to 5. In order to ensure meaningful participation and effective comparison, bidders are requested to furnish detailed information in substantiation of compliance to the evaluation criteria set out below.

1=Poor; 2=Fair; 3= Good; 4=Very Good; 5=Excellent

| Technical scorecard |                                                |                                                            |                                                                                                      |        |
|---------------------|------------------------------------------------|------------------------------------------------------------|------------------------------------------------------------------------------------------------------|--------|
|                     | Criteria                                       | Sub criteria                                               | Scoring Guide                                                                                        | Weight |
| 1.                  | Project Plan with detailed breakdown of phases | The proposed project plan and approach for delivery of the | <ul style="list-style-type: none"> <li>Project plan not attached. Work plan activities do</li> </ul> | 15%    |

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## CONTINUOUS AUDITING AND MONITORING

| Technical scorecard |          |                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |        |
|---------------------|----------|------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|
|                     | Criteria | Sub criteria                             | Scoring Guide                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Weight |
|                     |          | continuous auditing and monitoring tool. | <p>not commensurate with the deliverables in the terms of reference = 1;</p> <ul style="list-style-type: none"> <li>• Project Plan not aligned with timelines. Work plan describes all high level activities in logical with the time frames not compatible with the terms of reference = 2;</li> <li>• Project Plan describes all high level activities in logical sequence with clear time frames commensurate with the terms of reference =3</li> <li>• Work plan describes all high level activities, supplemented with further sub-activities in logical sequence with clear time frames</li> </ul> |        |

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## CONTINUOUS AUDITING AND MONITORING

| Technical scorecard |                                                                                                                                                                               |                                                                                                                             |                                                                                                                                                                                                            |        |
|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|
|                     | Criteria                                                                                                                                                                      | Sub criteria                                                                                                                | Scoring Guide                                                                                                                                                                                              | Weight |
|                     |                                                                                                                                                                               |                                                                                                                             | commensurate with the terms of reference = 4;<br>• A comprehensive detailed project plan describing all activities in logical sequence with clear time frames commensurate with the terms of reference = 5 |        |
| 2.                  | Service provider (bidder) proven reference for analysis skill and experience delivery of the continuous auditing and monitoring tool in public/ private sector (Bidder)       | Previous experience in the relevant fields by providing comprehensive case studies of similar work done in the past 5 years | <b>Case Studies</b><br>No case studies attached= 1<br>1 to 4 case studies = 2<br>5 case studies = 3<br>6 to 9 case studies = 4<br>10 and above case studies = 5                                            | 15%    |
| 3.                  | Service provider (bidder) proven reference for data analysis skills and experience delivery of the continuous auditing and monitoring tool in public/ private sector (Bidder) | A list of 5 signed contactable references for the designing and implementing continuous auditing and monitoring tool.       | <b>Reference Letters</b><br>No reference letter attached = 1<br>1 to 4 reference letters = 2<br>5 reference letters = 3<br>6 to 9 reference letters = 4<br>10 and above reference letters = 5              | 15%    |

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## CONTINUOUS AUDITING AND MONITORING

| Technical scorecard |                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                         |            |
|---------------------|----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|------------|
|                     | Criteria                                                                                                 | Sub criteria                                                                                                                                                                                                                                                                                                                                                                                                                                         | Scoring Guide                                                                                                                           | Weight     |
| 4.                  | Team experience in delivery of the continuous auditing and monitoring tool and professional affiliation. | <p>All team members should have relevant experience (for both the Project Manager, SAP Specialist and the Data Analysts) should be at least 20 years' combined experience on Data Analytics and/or robotics and SAP).</p> <p>Copies of the qualifications and professional affiliation of the team members must be included as proof and foreign acquired qualifications should be endorsed by the South African Qualification Authority (SAQA).</p> | <p>Less than 10 years and below = 1</p> <p>11-19 years = 2</p> <p>20 years = 3</p> <p>21-25 years = 4</p> <p>More than 25 years = 5</p> | 25%        |
| 5.                  | Project Manager experience in delivery of the continuous auditing and monitoring tool.                   | <p>The Project Manager qualification should be a data analyst or robotic enterprise professional with extensive skills (minimum 10 years' relevant combined experience on Data Analytics and/or robotics and SAP), professionalism, and applied knowledge in those areas.</p>                                                                                                                                                                        | <p>&lt; 4 years and below = 1</p> <p>5-9 years = 2</p> <p>10 years = 3</p> <p>11-14 years = 4</p> <p>&gt;14 years and above = 5</p>     | 30%        |
|                     |                                                                                                          | <b>Total technical score</b>                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                         | <b>100</b> |

## CONTINUOUS AUDITING AND MONITORING

| Technical scorecard |          |                                          |               |        |
|---------------------|----------|------------------------------------------|---------------|--------|
|                     | Criteria | Sub criteria                             | Scoring Guide | Weight |
|                     |          | Minimum threshold for technical proposal |               | 65     |

NB: All bidders with a score less than 65% out of 100% on technicality will not be considered for the next stage\phase.

## PHASE 4: PRESENTATION

| <b>Technical Scorecard</b> |                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |               |
|----------------------------|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
|                            | <b>Sub-Criteria</b> | <b>Scoring Guide</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>Weight</b> |
| 1.                         | Presentation        | <p>The service provider must be able to provide a demo for the continuous auditing and monitoring tool to illustrate the functionality and suitability of the tool to the Fund.</p> <p>The presentation on the professional role that each proposed member of the team will play, cross-referenced to each deliverable in the scope of work, and cross-referenced to each specified technical evaluation element set out in the technical scorecard.</p> <ul style="list-style-type: none"> <li>a) Understanding of the requirements<br/>Satisfactory understanding – 4</li> <li>b) Limited understanding – 3</li> <li>c) No understanding - 1</li> </ul> | 30%           |
|                            |                     | <p>Presentation of the Project Plan:</p> <ul style="list-style-type: none"> <li>a) Detailed project plan with deliverables and timeframe - 5</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 30%           |

## CONTINUOUS AUDITING AND MONITORING

|  |                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |             |
|--|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
|  |                              | b) Deliverables not aligned with the requirements - Satisfactory project plan - 3<br><br>c) Deliverables not aligned – Limited project plan -1<br><br>Demonstration of the continuous auditing and monitoring tool:<br><br>a) The functionality and the suitability to the Fund meets the requirements – 5<br><br>b) The demonstration of the tool partially meets the requirements - 3<br><br>c) Demonstration of the tool does not meet the expected requirements - 1 | 40%         |
|  | <b>Total technical score</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <b>100%</b> |

All bidders who score less than (70% out of 100%) on Presentation will not be considered for further evaluation on Price and BBEE.

### PHASE 5: PREFERENCE POINTS SYSTEM (PRICE AND BBEE).

Only Bidders that have met the 70% points threshold in Phase 4 will be evaluated in Phase 5 for price and BBEE. Price and BBEE will be evaluated as follows:

In terms of regulation 6 of the Preferential Procurement Regulations pertaining to the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000), responsive bids will be adjudicated on the 80/20-preference point system terms of which points are awarded to bidders on the basis of:

#### i. **Stage 1 – Price Evaluation (80 Points)**

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

## CONTINUOUS AUDITING AND MONITORING

$$P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where:

$P_s$  = Points scored for price of bid under consideration

$P_t$  = Price of bid under consideration

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

### ii. **Stage 2 – BBEE Evaluation (20 Points)**

#### a. **BBEE Points allocation**

A maximum of 20 points may be allocated to a bidder for attaining their B-BBEE status level of contributor in accordance with the table below:

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

B-BBEE points may be allocated to bidders on submission of the following documentation or evidence:

## CONTINUOUS AUDITING AND MONITORING

- A duly completed Preference Point Claim Form: Standard Bidding Document (SBD 6.1); and
- B-BBEE Certificate/ Sworn affidavit

The Service provider must submit proof of its B-BBEE status level of contribution.

Bidder(s) who do not claim Preference Points will be scored zero for B-BBEE and cannot be excluded from the tender process.

The Service provider must submit proof of its B-BBEE status level of contribution.

## 12. RULES OF BIDDING / SPECIAL CONDITIONS OF CONTRACT

- a) The Fund will enter into contracts with a single company for the delivery of the work set out in these terms of reference.
- b) The shortlisted companies may be required to conduct a presentation to the CF at no cost to the Compensation Fund.
- c) Tax Compliance status pin must be submitted by all South African companies submitting bids as part of a consortium or joint venture.
- d) Foreign company providing proposals must become familiar with local conditions and laws, and take them into account in preparing their proposals
- e) Bids must be submitted in South African Rands, on a fixed price basis.
- f) The cost of preparing bids and of negotiating the contract will not be reimbursed.
- g) The Fund is not bound to accept any of the bids submitted.

## CONTINUOUS AUDITING AND MONITORING

- h) The Fund reserves the right to withdraw or amend these terms of reference by notice in writing to all parties who have received the terms of reference.
- i) The Fund reserves the right to call interviews with short-listed bidders before final selection.
- j) The Fund reserves the right to negotiate price with the preferred bidder.
- k) Company may ask for clarification on these terms of reference up to close of business 72 hours before the deadline for the submission of bids. Any request for clarification must be submitted in writing by email and will be replied to in writing by email. [SCM.enquiries@LABOUR.gov.za](mailto:SCM.enquiries@LABOUR.gov.za).
- l) The Fund reserves the right to return late bid submissions unopened.
- m) The Fund reserves the right not to evaluate bids that are not submitted in the format specified in these terms of reference. Failure to submit the bids in the specified format will invalidate your bid.
- n) A company may not contact the Fund or any member of the bid committees, on any matter pertaining to their bid from the time when bids are submitted to the time the consultant contract is awarded. Any effort by a bidder to influence bid evaluation, bid comparisons or bid award decisions in any matter, may result in rejection of the bid concerned.
- o) The deadline for submission of bids is 11h00 on 04 February 2022 .....
- p) The required service must commence one week after the official order has been placed and contract signed.

## CONTINUOUS AUDITING AND MONITORING

- q) No incomplete tenders, late tenders and tenders received telegraphically or per facsimile shall be accepted.
- r) The personnel of the civil company shall adhere to security regulations of the Fund. This entails issues like locking all valuables and computer equipment, remove of any computer equipment from the Department's premises.
- s) The Compensation Fund reserves the right to conduct supplier due diligence prior to final award or at any time during the contract period. This may include site visits and presentations.
- t) A two envelope system must be used, with one envelope containing only the price proposal and the other envelope containing the technical proposal, one (1) CD with content of each file, tax compliance status pin, and all other tender documents.

Bids must be submitted by hand to:

**The Compensation Fund**  
**167 Thabo Sehume,**  
**Delta Heights Building,**  
**Pretoria CBD, 0001**

u) **Bids must be clearly marked:**

- I. Bid Number TCF 20: 2021/22
- II. Continuous Auditing and Monitoring
- III. Compensation Fund: Supply Chain Management
- IV. Attention: Acquisition Management

## CONTINUOUS AUDITING AND MONITORING

### 13. GENERAL CONDITIONS OF CONTRACT

The general conditions of contract as enclosed in the standard bidding documents apply.

### 14. BRIEFING SESSION

**A Non-compulsory Briefing Session will be held through Microsoft Teams**

[SCM.Enquiries@LABOUR.gov.za](mailto:SCM.Enquiries@LABOUR.gov.za)

NB: The cut-of time to receive enquiries is 72 hours before the closing date.

### 15. ENQUIRIES

[SCM.Enquiries@LABOUR.gov.za](mailto:SCM.Enquiries@LABOUR.gov.za)

**PRICING SCHEDULE**  
(Professional Services)

NAME OF BIDDER: ..... BID NO: TCF 20: 2021/22

CLOSING TIME 11:00

CLOSING DATE: 04 FEBRUARY 2022

OFFER TO BE VALID FOR 90 DAYS FROM THE CLOSING DATE OF BID.

| ITEM<br>NO<br>INCLUDED) | DESCRIPTION | BID PRICE IN RSA CURRENCY<br>(ALL APPLICABLE TAXES |
|-------------------------|-------------|----------------------------------------------------|
|-------------------------|-------------|----------------------------------------------------|

1. The accompanying information must be used for the formulation of proposals.

2. Bidders are required to indicate a ceiling price based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project. R.....

3. PERSONS WHO WILL BE INVOLVED IN THE PROJECT AND RATES APPLICABLE (CERTIFIED INVOICES MUST BE RENDERED IN TERMS HEREOF)

| 4.    | PERSON AND POSITION | HOURLY RATE | DAILY |
|-------|---------------------|-------------|-------|
| RATE  | DAILY RATE          |             |       |
| ----- | -----               | R-----      | ----- |
| ---   | -----               | R-----      | ----- |
| ----- | -----               | R-----      | ----- |
| ---   | -----               | R-----      | ----- |
| ----- | -----               | R-----      | ----- |
| ---   | -----               | R-----      | ----- |
| ----- | -----               | R-----      | ----- |
| ---   | -----               | R-----      | ----- |

5. PHASES ACCORDING TO WHICH THE PROJECT WILL BE COMPLETED, COST PER PHASE AND MAN-DAYS TO BE SPENT

|       |        |           |
|-------|--------|-----------|
| ----- | R----- | -----days |
| ----- | R----- | -----days |
| ----- | R----- | -----     |
| days  |        |           |
| ----- | R----- | -----     |
| days  |        |           |

5.1 Travel expenses (specify, for example rate/km and total km, class of airtravel, etc). Only actual costs are recoverable. Proof of the expenses incurred must accompany certified invoices.

| DESCRIPTION OF EXPENSE TO BE INCURRED | RATE  | QUANTITY | AMOUNT |
|---------------------------------------|-------|----------|--------|
| .....                                 | ..... | .....    | R..... |
| .....                                 | ..... | .....    | R..... |
| .....                                 | ..... | .....    | R..... |
| .....                                 | ..... | .....    | R..... |

TOTAL: R.....

\*\* "all applicable taxes" includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.

5.2 Other expenses, for example accommodation (specify, eg. Three star hotel, bed and breakfast, telephone cost, reproduction cost, etc.). On basis of these particulars, certified invoices will be checked for correctness. Proof of the expenses must accompany invoices.

| DESCRIPTION OF EXPENSE TO BE INCURRED | RATE  | QUANTITY | AMOUNT |
|---------------------------------------|-------|----------|--------|
| .....                                 | ..... | .....    | R..... |
| .....                                 | ..... | .....    | R..... |
| .....                                 | ..... | .....    | R..... |
| .....                                 | ..... | .....    | R..... |

TOTAL: R.....

6. Period required for commencement with project after acceptance of bid.....

7. Estimated man-days for completion of project  
.....

8. Are the rates quoted firm for the full period of contract? \*YES/NO

9. If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index.

.....  
.....  
.....  
.....

\*[DELETE IF NOT APPLICABLE]

Any enquiries regarding bidding procedures may be directed to the –

SCM.enquiries@labour.gov.za

## DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state<sup>1</sup>, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes an advertised competitive bid, a limited bid, a proposal or written price quotation). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, 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 state; and/or
- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

2. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

2.1 Full Name of bidder or his or her representative: .....

2.2 Identity Number:.....

2.3 Position occupied in the Company (director, trustee, shareholder<sup>2</sup>, member):  
.....

2.4 Registration number of company, enterprise, close corporation, partnership agreement or trust:  
.....

2.5 Tax Reference Number:.....

2.6 VAT Registration Number: .....

2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / PERSAL numbers must be indicated in paragraph 3 below.

<sup>1</sup>"State" means –

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

<sup>2</sup>"Shareholder" means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.

2.7 Are you or any person connected with the bidder presently employed by the state? YES / NO

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member: .....

Name of state institution at which you or the person connected to the bidder is employed :

.....  
Position occupied in the state institution:

.....

Any other particulars:

.....  
.....  
.....

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? YES / NO

2.7.2.1 If yes, did you attach proof of such authority to the bid document? YES / NO

(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.

2.7.2.2 If no, furnish reasons for non-submission of such proof:

.....  
.....  
.....

2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months? YES / NO

2.8.1 If so, furnish particulars:

.....  
.....  
.....

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? YES / NO

2.9.1 If so, furnish particulars.

.....  
.....  
.....

2.10 Are you, or any person connected with the bidder,  
aware of any relationship (family, friend, other) between  
any other bidder and any person employed by the state  
who may be involved with the evaluation and or adjudication  
of this bid?

YES/NO

2.10.1 If so, furnish particulars.

.....  
.....  
.....

2.11 Do you or any of the directors / trustees / shareholders / members  
of the company have any interest in any other related companies  
whether or not they are bidding for this contract?

YES/NO

2.11.1 If so, furnish particulars:

.....  
.....  
.....

**3 Full details of directors / trustees / members / shareholders.**

| Full Name | Identity Number | Personal Income Tax<br>Reference Number | State Employee<br>Number / Persal<br>Number |
|-----------|-----------------|-----------------------------------------|---------------------------------------------|
|           |                 |                                         |                                             |
|           |                 |                                         |                                             |
|           |                 |                                         |                                             |
|           |                 |                                         |                                             |
|           |                 |                                         |                                             |
|           |                 |                                         |                                             |
|           |                 |                                         |                                             |
|           |                 |                                         |                                             |

**1. DECLARATION**

I, THE UNDERSIGNED (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT. I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL  
PROCUREMENT REGULATIONS 2017**

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 MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.**

**1. GENERAL CONDITIONS**

- 1.1 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
- 1.2 The value of this bid is estimated not to exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable.
- 1.3 Preference points for this bid shall be awarded for:
- (a) Price; and
  - (b) B-BBEE Status Level of Contribution.
- 1.4 The maximum points for this bid are allocated as follows:

|                                                          | <b>POINTS</b> |
|----------------------------------------------------------|---------------|
| <b>PRICE</b>                                             | <b>80</b>     |
| <b>B-BBEE STATUS LEVEL OF CONTRIBUTION</b>               | <b>20</b>     |
| <b>Total points for Price and B-BBEE must not exceed</b> | <b>100</b>    |

- 1.5 Failure on the part of a bidder to submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS), or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or a sworn affidavit confirming annual turnover and level of black ownership in case of an EME and QSE together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.
- 1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

## 2. DEFINITIONS

- (a) **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- (b) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (c) **“B-BBEE status level of contributor”** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained 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;
- (d) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- (e) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (f) **“comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- (g) **“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;
- (h) **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- (i) **“EME”** means an Exempted Micro Enterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (j) **“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;
- (k) **“functionality”** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- (l) **“non-firm prices”** means all prices other than “firm” prices;
- (m) **“person”** includes a juristic person;
- (n) **“QSE”** means a Qualifying Small EEnterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 ( Act No. 53 of 2003);
- (o) **“rand value”** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;

- (p) **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
- (q) **“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 9 February 2007;
- (r) **“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
- (s) **“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.

### 3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts.
- 3.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 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.
- 3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
- 3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

### 4. POINTS AWARDED FOR PRICE

#### 4.1 THE 80/20 PREFERENCE POINT SYSTEMS

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

**80/20**

$$P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

- $P_s$  = Points scored for comparative price of bid under consideration
- $P_t$  = Comparative price of bid under consideration
- $P_{\min}$  = Comparative price of lowest acceptable bid

**5. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTION**

- 5.1 In terms of Regulation 5 (2) and 6 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

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

- 5.2 A bidder who qualifies as a EME in terms of the B-BBEE Act must submit a sworn affidavit confirming Annual Total Revenue and Level of Black Ownership.
- 5.3 A Bidder other than EME or QSE must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- 5.4 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.
- 5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 5.6 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.
- 5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 5.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

**6. BID DECLARATION**

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

**7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 5.1**

7.1 B-BBEE Status Level of Contribution: . = .....(maximum of 20 points)  
(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or a sworn affidavit.

**8. SUB-CONTRACTING**

8.1 Will any portion of the contract be sub-contracted?  
(*Tick applicable box*)

|     |  |    |  |
|-----|--|----|--|
| YES |  | NO |  |
|-----|--|----|--|

8.1.1 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.

(*Tick applicable box*)

|     |  |    |  |
|-----|--|----|--|
| YES |  | NO |  |
|-----|--|----|--|

(1)

**9. DECLARATION WITH REGARD TO COMPANY/FIRM**

9.1 Name of  
company/firm:.....

9.2 VAT registration  
number:.....

9.3 Company registration  
number:.....

**9.4 TYPE OF COMPANY/ FIRM**

- ☐ Partnership/Joint Venture / Consortium
- ☐ One person business/sole propriety
- ☐ Close corporation
- ☐ Company
- ☐ (Pty) Limited

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....  
.....  
.....

9.6 COMPANY CLASSIFICATION

- ☐ Manufacturer
  - ☐ Supplier
  - ☐ Professional service provider
  - ☐ Other service providers, e.g. transporter, etc.
- [TICK APPLICABLE BOX]

9.7 Total number of years the company/firm has been in business:.....

9.8 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-BBE status level of contribution indicated in paragraph 7 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
  - (a) disqualify the person from the bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;

- (d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
- (e) forward the matter for criminal prosecution

WITNESSES

- 1. ....
- 2. ....

.....  
SIGNATURE(S) OF BIDDERS(S)

DATE: .....

ADDRESS .....

.....

## DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- 1 This Standard Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be disregarded if that bidder, or any of its directors have-
  - a. abused the institution's supply chain management system;
  - b. committed fraud or any other improper conduct in relation to such system; or
  - c. failed to perform on any previous contract.
- 4 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

| Item  | Question                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Yes                             | No                             |
|-------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|--------------------------------|
| 4.1   | Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?<br><b>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</b><br><br>The Database of Restricted Suppliers now resides on the National Treasury's website( <a href="http://www.treasury.gov.za">www.treasury.gov.za</a> ) and can be accessed by clicking on its link at the bottom of the home page. | Yes<br><input type="checkbox"/> | No<br><input type="checkbox"/> |
| 4.1.1 | If so, furnish particulars:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                 |                                |
| 4.2   | Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?<br><b>The Register for Tender Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b>                                                                                                                                                                                                                                                                             | Yes<br><input type="checkbox"/> | No<br><input type="checkbox"/> |
| 4.2.1 | If so, furnish particulars:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                 |                                |
| 4.3   | Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Yes<br><input type="checkbox"/> | No<br><input type="checkbox"/> |
| 4.3.1 | If so, furnish particulars:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                 |                                |
| 4.4   | 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?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Yes<br><input type="checkbox"/> | No<br><input type="checkbox"/> |
| 4.4.1 | If so, furnish particulars:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                 |                                |

CERTIFICATION

I, THE UNDERSIGNED (FULL NAME).....  
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE  
AND CORRECT.

I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE  
TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

Js365bW

## CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Standard Bidding Document (SBD) must form part of all bids<sup>1</sup> invited.
- 2 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).<sup>2</sup> Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 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 authorizes 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.
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

<sup>1</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

<sup>2</sup> 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 not to compete

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

I, the undersigned, in submitting the accompanying bid:

---

**(Bid Number and Description)**

in response to the invitation for the bid made by:

---

**(Name of Institution)**

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: \_\_\_\_\_ that:

**(Name of Bidder)**

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
  - (a) has been requested to submit a bid in response to this bid invitation;
  - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
  - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium<sup>3</sup> will not be construed as collusive bidding.

7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
- (a) prices;
  - (b) geographical area where product or service will be rendered (market allocation)
  - (c) methods, factors or formulas used to calculate prices;
  - (d) the intention or decision to submit or not to submit, a bid;
  - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
  - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract
10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

Js914w 2

## GOVERNMENT PROCUREMENT GENERAL CONDITIONS OF CONTRACT.

### NOTES

The purpose of this document is to:

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

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

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

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## General Conditions of Contract

1. **Definitions** 1. The following terms shall be interpreted as indicated:
  - 1.1 "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
  - 1.2 "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
  - 1.3 "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
  - 1.4 "Corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.
  - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
  - 1.6 "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
  - 1.7 "Day" means calendar day.
  - 1.8 "Delivery" means delivery in compliance of the conditions of the contract or order.
  - 1.9 "Delivery ex stock" means immediate delivery directly from stock actually on hand.
  - 1.10 "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
  - 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
  - 1.12 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
  - 1.13 "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive

practice among bidders prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.

- 1.14 "GCC" means the General Conditions of Contract.
- 1.15 "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16 "Imported content" means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- 1.17 "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18 "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 "Project site," where applicable, means the place indicated in bidding documents.
- 1.21 "Purchaser" means the organization purchasing the goods.
- 1.22 "Republic" means the Republic of South Africa.
- 1.23 "SCC" means the Special Conditions of Contract.
- 1.24 "Services" means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
- 1.25 "Written" or "in writing" means handwritten in ink or any form of electronic or mechanical writing.

## **2. Application.**

- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.

- 2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

### **3. General**

- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X 85, Pretoria 0001, or accessed electronically from [www.treasury.gov.za](http://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 organization acting on behalf of the Department.
- 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 those 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 10 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 fulfilment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated in SCC.

## **17. Prices**

- 5.1 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 contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

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

## **22. Penalties**

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

## **23. Termination for default**

- 23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:
- (a) If the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
  - (b) If the Supplier fails to perform any other obligation(s) under the contract; or
  - (c) If the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms 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.
- 23.5 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 antidumping 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
  - (c) The purchaser shall pay the supplier any monies due the supplier.

## **28. Limitation of liability**

- 28.1 Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6;
- (a) The supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and
  - (b) The aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

## **29. Governing language**

- 29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that exchanged by the parties shall also be written in English.

## **30. Applicable law**

- 30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.

### **31. Notices**

- 31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice.
- 31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

### **32. Taxes and duties**

- 32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.

### **33. National Industrial Participation (NIP) Programme**

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

### **34. Prohibition of Restrictive practices**

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