



human settlements

Department:
Human Settlements
REPUBLIC OF SOUTH AFRICA

Private Bag X644 Pretoria 0001 RSA Tel (012) 421 1311 Fax (012) 341 8512
Private Bag X9057 Cape Town 8000 RSA Tel (021) 466 7600 Fax (021) 465 3610
<http://www.housing.gov.za> Fraud Line: 0800 701 701 Toll Free Line: 0800 1 46873 (0800 1 HOUSE)

REFERENCE : VA49/751
ENQUIRIES : MR MC CAMAGU
TELEPHONE : {012} 444 9240

BID VA49/751: TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT A SKILLS AUDIT FOR THE DEPARTMENT OF HUMAN SETTLEMENTS FOR A PERIOD OF 6 MONTHS.

- 1 The closing date for the submission of applications/bid documents is 19 September 2022 @ 11:00. No late applications/bid documents will be considered. All bids must please be placed in the in the Tender Box at the main entrance of the building (DEPARTMENT OF HUMAN SETTLEMENTS, DR RUTH S MOMPATI, 260 JUSTICE MAHOMED STREET, SUNNYSIDE, PRETORIA).
- 2 It is compulsory that an original proposal/bid documents be handed in on/before the closing date of the bid.
- 3 You are invited to bid for the services as specified in the attached forms.
- 4 The conditions contained in General Conditions of Contracts (GCC) and the attached SBD1, SBD3.3, SBD4, SBD6.1 as well as any other conditions accompanying this request are applicable.
- 5 **NATIONAL TREASURY CIRCULAR NO 3 OF 2015/2016**
 - 5.1 From 1 April 2016, institutions/departments may not award any bid to a supplier who is not registered on the Centralised Supplier Database (CSD).
 - 5.2 No Briefing Session will be held

MR N MBENGO
CHIEF DIRECTOR: FINANCIAL SERVICES
For DIRECTOR-GENERAL
DATE: 26/08/2022
Tendercovlet

Kgoro ya tsa Madulo * Lefapha la Bodulo * Lefapha la tsa Manno * Umnyango Wezindawo Zokuhlala * Isebe leeNdawo zokuhlala
* Litiko Letekwakhela Luntfu * Menslike Nedersettings * UmNyango weeNdawo zokuhlala * Muhasho wa zwa Vhutuzulo * Ndzawulo ya swa Vutshamo

Breaking new ground in housing delivery - Houses, Security & Comfort

THE DEPARTMENT OF HUMAN SETTLEMENTS

BID NUMBER: VA49/751

DESCRIPTION: PROFESSIONAL SERVICES

CLOSING DATE: 19 SEPTEMBER 2022

CHECK LIST TO BE COMPLETED BY THE BIDDER:

<u>Table of Contents:</u>	<u>Yes:</u>	<u>No:</u>
Terms of Reference		
SBD1 Invitation To Bid		
SBD3.3 Pricing Schedule		
SBD 4 Declaration of Interest		
SBD 6.1 Preference Point: Purchases		
General Conditions of Contract		
<u>Supporting Documents:</u>		
Company Profile		
ID Copies of Directors (certified)		
Certificate issued by Registrar of Companies & Close Corporation, issued by CIPRO.		
Certified/Original Valid B-BBEE Status Level Verification Certificate - 07 December 2011(IF AVAILABLE)		
Compulsory: Please attach a copy of CSD registration report (not later than a month).		

BIDDER NAME IN FULL: _____

SIGNATURE: _____

CAPACITY: _____ **DATE:** _____

Bid invitation check list: Compiled: MR MC CAMAGU

DEPARTMENT OF HUMAN SETTLEMENTS

TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT A SKILLS AUDIT FOR THE DEPARTMENT OF HUMAN SETTLEMENTS FOR A PERIOD OF 6 MONTHS

1. INTRODUCTION

1.1 The strategic thrust for the 2019-2024 Medium Term Strategic Framework (MTSF) is spatial transformation and consolidation. The spatial transformation agenda seeks to address inefficiencies that exist in human settlements that have seen citizens living far from their areas of work with no access to infrastructure and services. The MTSF is focused at achieving three outcomes that include:

1.1.1 Spatial through multi-programme integration in priority development areas;

1.1.2 Adequate Housing in quality living environments; and

1.1.3 Security of tenure.

1.2 The achievement of human settlements outcomes is dependent on appropriate integration of planning, budgeting and prioritization of projects with different sectors involved in the development of human settlements.

1.3 For this to be realised, the Department should:

1.3.1 Strengthen and refocus its intergovernmental coordination process;

1.3.2 Engage with other spheres of government, sector departments and other stakeholders and ensure that programmes and projects are implemented in line with infrastructure plans, in strategically located areas;

1.3.3 Providing citizens with access to infrastructure, services and secure tenure;

1.3.4 Strengthen its monitoring and oversight function and ensure better realisation of the spatial vision; and

1.3.5 Conduct skills audit to determine skills required to deliver, develop a response strategy to address skills gaps and ensure the alignment of skills development strategy and implementation plan to priorities outlined in the MTSF.

1.4 In the main, critical programmes that deliver on MTSF priorities require skills relating to:

1.4.1 Built environment and construction, which include Town and Regional Planning, Surveyors, Engineering, Quantity Surveying, Development Finance and Financial

Modellers, Data Analysts, Conveyancers, Monitoring and Evaluation specialists that will be able to gather information at household and settlement level.

- 1.5 In addressing skills and capacity gaps, the department will pursue its mandate and ensure that settlements are well planned and developed through integrated planning and management approaches, thus improving the lives of citizens.
- 1.6 The National Department of Human Settlements (DHS) is finalising its organisational structure therefore intends to appoint a reputable service provider that possesses the required expertise, knowledge and experience to conduct the skills audit on 550 employees for the period not exceeding 6 months. The DHS staff is situated in 240 Govan Mbeki House and 260 Dr Ruth Mompati Buildings, Justice Mohamed Street, Sunnyside, Pretoria. The staff based in the Cape Town Office will be invited to Head Office in Pretoria to participate in the skills audit.

2. BID REQUIREMENTS

- 2.1 Prospective service provider must submit bid proposal:
 - 2.1.1 Demonstrating proven skills and experience of conducting skills audit.
 - 2.1.2 Demonstrating proven knowledge and experience of developing a competency framework.
- 2.2 Prospective service provider must submit the proposals, including a detailed project plan and budget breakdown.
- 2.3 Failure to submit a bid proposal according to the stipulated requirements above will render the bid proposal non-responsive and will be disqualified.
- 2.4 The Department reserves the right not to award the bid.

3 MEASURABLE OUTPUT

- 3.1 The prospective service provider will be required to develop a Competency Framework which encapsulates the following:
 - 3.1.1 Collect data on the current skills, experience and qualifications of 550 employees based in Pretoria and Cape Town.
 - 3.1.2 Analyse the collected data on skills, experience and qualifications of employees;
 - 3.1.3 Provide a report of the skills audit with:

- 3.1.3.1 Matching skills to job profiles and competences;
- 3.1.3.2 Identifying skills gaps and making recommendations; and
- 3.1.3.3 Providing the Department with a Competency Framework.

4 MILESTONES AND TIMEFRAMES

- 4.1 The milestones and deliverables for this project includes:

Milestones and Deliverables	Percentage Allocation
1. Project plan and project chart with timeframes	10%
2. Collection of data on the current skills, experience and qualifications of the employees	20%
3. Analysis of data collected on skills, experience and qualifications of employees	30%
4. Analysis of future required skills and experience of the employees	20%
5. Comprehensive Skills Audit Report	20%
Total percentage allocation	100%

- 4.2 The duration of the project shall not exceed **6 months** from the date of commissioning of the project.
- 4.3 The prospective service provider will furnish the Department with a proposal which details milestones aligned to the payment structure before signing the contract.

5 KNOWLEDGE AND EXPERTISE OF THE SERVICE PROVIDER

- 5.1 The prospective service provider must demonstrate:
- 5.1.1 Skills audit expertise in the public sector in an organization that has 550 and more employees.
 - 5.1.2 All the project team members must have relevant knowledge, skills, experience and qualifications working with Senior Management Service (SMS) members in the public service within the human resources, human resource development, skills development and training and development fields.
 - 5.1.3 The project leader must have at least a Master's degree in the relevant field and at least 5 years' experience in the relevant field.
 - 5.1.4 All other project team members must have postgraduate qualifications in the relevant field and at least 3 years or more experience in human capital environment.

5.2 The prospective service provider must have a minimum of **5 years'** experience working with Senior Management Service (SMS) members in the public service in the field of:

- a) Development of an Organisational Structure;
- b) Human Resource Development Strategic Framework (HRSDF)
- c) Human Resource Development;
- d) Skills Audit;
- e) Skills Development;
- f) Performance Management, Career, Succession and Talent planning;
- g) Extensive and demonstrated experience in the project field (proof of previous similar projects and notable references required). The tenderer must include a detailed profile of the business and its Project Managers; and
- h) Institutional capacity to successfully carry out an assignment of this nature.

6 INSTITUTIONAL ARRANGEMENTS

6.1 The Department will delegate a project leader to provide guidance and oversight to the service provider. The delegated official will, inter alia ensure that the services are delivered accordingly.

6.2 Similarly, the service provider will delegate a project manager to ensure that the assignment is rolled out in terms of the Terms of Reference and shall be recorded in the Service Level Agreement.

6.3 The prospective service provider must conduct skills audit and develop competency framework for all staff including the following:

- Skills audit report which outlines the current skills and experience versus required skills and experience;
- Skills audit gap report and make recommendations;
- Report on the qualification status of staff; and
- Strategic improvement plan on training and development programmes for staff at various levels;

7 SCOPE OF WORK

The work of the service provider will include the following services:

7.1 **Develop a Departmental Competency Framework**, through assessment and use of existing tools in the Department, to:

- 7.1.1 Identify the required functional and technical skills and competencies per position or occupational class, to effectively and efficiently support the Department to achieve its strategic objectives for at least a period of 5 years.
- 7.1.2 Utilise benchmarking techniques with acceptable standards and consider regulatory or other compliance issues.
- 7.1.3 Prepare a skills audit model write-up pertaining to Skills Matrix and position profiles;
- 7.1.4 Develop a Competency Framework that will include descriptions of each competency, definable competency indicators, determine and show the current competency levels of each job within job families, occupations and employment categories.
- 7.2 **Conduct a skills audit** for all staff currently employed in the Department:
 - 7.2.1 Conduct a skills and competency audit on 550 individual staff members currently employed in the Department that are based in Pretoria and Cape Town Offices, and collect, collate and submit a list of their individual qualifications, skills, competencies and experience;
 - 7.2.2 Assess the currently available qualifications, skills and experience of staff versus the required skills and experience in line with the competency framework results;
 - 7.2.3 Analyse, identify, refine and submit a current staff skills gap, emanating from outcomes of the skills audit exercise and outcomes, in comparison to required skills to fulfil the Departmental Constitutional mandate, together with recommendations;
 - 7.2.4 Prepare, compile and present a skills profile of all employees in relation to set standards and propose appropriate improvement measures, which will serve as a basis for a Departmental skills database;
 - 7.2.5 Link results of the competency framework results and skills gap analysis to existing systems of Performance Management, Career, Talent and Succession Planning as well as learning and development and recommend appropriate improvement measures thereof.
- 7.3 **Compile, present and submit a Close-Out Report** with recommendations on:
 - a) The most practical ways to better plan, place, utilise and enhance the existing and future required skills and competencies of employees in the Department; and
 - b) Relevant strategic improvement training and development programmes for various staff levels to address skills and performance barriers and enhance individual and organisational performance towards achievement of the Department's goals.

8 EVALUATION CRITERIA

The following functionality criteria will be used for evaluating the tender.

The 80/20 Preferential Point System shall be utilised.

CRITERIA	SUB-CRITERIA AND WEIGHT	SUB-POINTS	TOTAL VALUE
1. Project Methodology	Clear understanding of scope of work with respect to the ToR and technical requirements, inclusive of: - Project plan and project chart outlining milestones inclusive of timeframes not exceeding 6 months (5) Workplan with clear deliverables and timeframes with key defined aspects of the skills audit including how the prospective service provider proposes to: - Collect data on the current skills, experience and qualifications of the employees (5) - Analyse of data collected on skills, experience and qualifications of employees (5) - Analyse the future required skills and experience of the employees in the Department (5) - Compile a comprehensive Skills Audit Report (5)	25	100
2. Company years of experience in handling comparative/similar projects	Prospective service provider must have the following number of years in implementing projects of a similar nature: 10 years plus (20) 6-9 years (15) 5 years (10) 0-4 years (0)	20	
3. Company submit the list of references with similar jobs	Prospective service provider must demonstrate a minimum number of similar and equivalent projects successfully managed and completed, their duration, preferably in the Public Sector, with attached signed Reference Letters from Clients on completed projects and Contact Details (No scores will be awarded for the projects without reference letters). 6 plus Projects with attached reference letters (25) 4-5 Projects with attached reference letters (20) 2-3 Projects with attached reference letter (15) 1 Projects with attached reference letter (10)	25	
4. Project leader qualifications and expertise (CV with verifiable and	The prospective project leader must have at least the following qualifications, plus a detailed CV:	20	

CRITERIA	SUB-CRITERIA AND WEIGHT	SUB-POINTS	TOTAL VALUE
certified copies of certificates must be attached.	• Certified relevant SAQA accredited Master's degree (NQF level 9) plus in relevant field. (20) • Certified relevant SAQA accredited qualification below Master's degree (NQF Level 9) (0)		
5. Project leader expertise and experience (Verifiable and certified copies of reference letters from previous employer/clients must be attached.	The prospective project leader must have the following experience: • 10 years plus relevant experience in developing, implementing and/managing projects of similar nature (10) • 6-9 years plus relevant experience in developing, implementing and implementing and/managing projects of similar nature (8) • 5 years plus relevant experience in developing, implementing and/managing projects of similar nature (5) • 0-4 years relevant experience in developing, implementing and/managing projects of similar nature (0)	10	
A proposal that score less than 70 out of 100 in respect of functionality will be regarded as non-responsive proposal and will be disqualified.			

8.2 A tender that scores less than 70 points out of 100 in respect of functionality will be regarded as submitting a non-responsive tender and will be disqualified.

9 EXECUTION OF WORK

- 9.1 The service provider agrees to execute work described in this document to the satisfaction of the project leader who represents the department. Payment will only take place after the project manager has endorsed it.

10 COST ESTIMATE

- 10.1 The service provider is required to include a full cost estimate in its tender, broken down by deliverables, milestones and timeframes. Cost should include but not limited to: **Cost per staff member, material and equipment per month, inclusive of VAT as per SBD documentation.**

11 PAYMENT STRUCTURE

- 11.1 Payment will be effected in tranches in terms of key deliverables for the duration of the contract and to be fixed for the duration of the contract (06 Months) effected as tabulated below:

Milestones and Deliverables	Percentage Payment
1. Project plan and project chart with timeframes	10%
2. Collection of data on the current skills, experience and qualifications of the employees	20%
3. Analysis of data collected on skills, experience and qualifications of employees	30%
4. Analysis of future required skills and experience of the employees	20%
5. Comprehensive Skills Audit Report	20%
Total percentage allocation	100%

- 11.1.1 Payments will be linked to project deliverables as agreed between the service provider and the Department; and
- 11.1.2 Should the service provider fail to provide quality services to the satisfaction of the department, the department will reserve the right to demand improvement of the service before payment.

12 CONTACT DETAILS

- 12.1 Questions of clarity will be dealt with strictly in writing. Bidders may forward written questions for clarity related to the meaning or interpretation of any part of this Terms of Reference or any other aspect concerning the bid for the attention of:

Ms Helga Winkler
Director: Human Resource Utilisation and Development
(012) 444-9070
helga.winkler@dhs.gov.za

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)					
BID NUMBER: VA49/751		CLOSING DATE: 19 SEPTEMBER 2022			11:00
DESCRIPTION		PROFESSIONAL SERVICES			
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
THE NATIONAL DEPARTMENT OF HUMAN SETTLEMENTS,					
DR RUTH MOMPATI BUILDING					
260 JUSTICE MAHOMED STREET,					
SUNNYSIDE, PRETORIA					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	MR M CAMAGU		CONTACT PERSON	Ms Helgar Winkler	
TELEPHONE NUMBER	012 444 9240		TELEPHONE NUMBER		
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	mbulelo.camagu@dhs.gov.za,		E-MAIL ADDRESS	Helger.winkler@dhs.gov.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] ☐ Yes ☐ No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		TICK APPLICABLE BOX] ☐ Yes ☐ No
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		☐ Yes ☐ No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?				☐ YES ☐ NO	
DOES THE ENTITY HAVE A BRANCH IN THE RSA?				☐ YES ☐ NO	
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?				☐ YES ☐ NO	
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?				☐ YES ☐ NO	
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?				☐ YES ☐ NO	
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.					

PART B TERMS AND CONDITIONS FOR BIDDING

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

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

SIGNATURE OF BIDDER:

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

DATE: ...

.....

PRICING SCHEDULE
(Professional Services)

NAME OF BIDDER: BID NO: **VA49/751**

CLOSING TIME **11:00**

CLOSING DATE: **19 SEPTEMBER 2022**

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

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY ** (ALL APPLICABLE TAXES INCLUDED)
------------	-------------	---

**BID VA49/751: TERMS OF REFERENCE FOR THE APPOINTMENT OF A
SERVICE PROVIDER TO CONDUCT A SKILLS AUDIT FOR THE DEPARTMENT
OF HUMAN SETTLEMENTS FOR A PERIOD OF 6 MONTHS.**

1. The accompanying information must be used for the formulation of proposals.
2. Bidders are required to indicate a **ceiling price** based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project.
3. PERSONS WHO WILL BE INVOLVED IN THE PROJECT AND RATES APPLICABLE (CERTIFIED INVOICES MUST BE RENDERED IN TERMS HEREOF)

R.....

4. PERSON AND POSITION

HOURLY RATE

DAILY RATE

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

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 air travel, 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.....

Bid No: VA49/751

Name of Bidder:

.....		R.....
.....		R.....
TOTAL: R.....		

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

5.2 Other expenses, for example accommodation (specify, e.g. 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 –

THE NATIONAL DEPARTMENT OF HUMAN SETTLEMENTS, DR RUTH S MUMPATI, 260 JUSTICE MAHOMED STREET, SUNNYSIDE, PRETORIA

Department: THE NATIONAL DEPARTMENT OF HUMAN SETTLEMENTS

MR M CAMAGU
Tel: 012 444 9240
Fax: n/a
E-mail address: mbulelo.camagu@dhs.gov.za,

ANY ENQUIRIES REGARDING TECHNICAL INFORMATION MAY BE DIRECTED TO:

Contact Person: Ms Helga Winkler
E-mail address: helga.winkler@dhs.gov.za

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

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

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

2. Bidder's declaration

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

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

Full Name	Identity Number	Name of State institution

2.2 Do you, or any person connected with the bidder, have a relationship

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

with any person who is employed by the procuring institution? YES/NO

2.2.1 If so, furnish particulars:

.....

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

2.3.1 If so, furnish particulars:

.....

3 DECLARATION

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

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

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

institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

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

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

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 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
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

a) 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; or

b) The 80/20 preference point system will be applicable to this tender

1.2 Points for this bid shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contributor.

1.3 The maximum points for this bid are allocated as follows:

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

1.4 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.5 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) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **“B-BBEE status level of contributor”** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;
- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **“EME”** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) **“prices”** includes all applicable taxes less all unconditional discounts;
- (h) **“proof of B-BBEE status level of contributor”** means:
 - 1) B-BBEE Status level certificate issued by an authorized body or person;
 - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
 - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) **“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

3. POINTS AWARDED FOR PRICE

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

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

80/20

or

90/10

$$P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right) \quad \text{or} \quad P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

P_s = Points scored for price of bid under consideration

P_t = Price of bid under consideration

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

4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

- 4.1 In terms of Regulation 6 (2) and 7 (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-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
------------------------------------	---------------------------------	---------------------------------

1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

5. BID DECLARATION

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

6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

- 6.1 B-BBEE Status Level of Contributor: . =(maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

7. SUB-CONTRACTING

- 7.1 Will any portion of the contract be sub-contracted?

(Tick applicable box)

YES	☐	NO	☐
-----	--------------------------	----	--------------------------

- 7.1.1 If yes, indicate:

- What percentage of the contract will be subcontracted.....%
- The name of the sub-contractor.....
- The B-BBEE status level of the sub-contractor.....
- Whether the sub-contractor is an EME or QSE

(Tick applicable box)

YES	☐	NO	☐
-----	--------------------------	----	--------------------------

- v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations, 2017:

Designated Group: An EME or QSE which is at least 51% owned by:	EME √	QSE √
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		

Black people who are military veterans		
OR		
Any EME		
Any QSE		

8. DECLARATION WITH REGARD TO COMPANY/FIRM

8.1 Name _____ of
company/firm:.....

8.2 VAT _____ registration
number:.....

8.3 Company _____ registration
number:.....

8.4 TYPE OF COMPANY/ FIRM

Partnership/Joint Venture / Consortium

One person business/sole propriety

Close corporation

Company

(Pty) Limited

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

8.6 COMPANY CLASSIFICATION

Manufacturer

Supplier

Professional service provider

Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

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

8.8 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 contributor indicated in paragraphs 1.4 and 6.1 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 paragraphs 1.4 and 6.1, 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 contributor 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) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury 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

.....

.....

THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT

July 2010

GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT
July 2010

NOTES

The purpose of this document is to:

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

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

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

TABLE OF CLAUSES

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

General Conditions of Contract

1. Definitions

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

RSA.

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

obligations of the supplier covered under the contract.

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

2. Application

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

3. General

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

4. Standards

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

5. Use of contract documents and information; inspection.

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

6. Patent rights

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

7. Performance security

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

8. Inspections, tests and analyses

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

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

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

9. Packing

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

10. Delivery and documents

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

11. Insurance

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

12. Transportation

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

13. Incidental services

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

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

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

14. Spare parts

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

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

15. Warranty

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

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

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

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

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

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

16. Payment

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

17. Prices

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

18. Contract amendments

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

19. Assignment

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

20. Subcontracts

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

21. Delays in the supplier's performance

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

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

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

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

22. Penalties

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

23. Termination for default

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

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

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

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

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

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

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

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

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

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

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

24. Anti-dumping and countervailing duties and rights

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

may be due to him

25. Force Majeure

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

26. Termination for insolvency

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

27. Settlement of Disputes

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

28. Limitation of liability

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

- (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.
- 29. Governing language** 29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
- 30. Applicable law** 30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
- 31. Notices** 31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice
- 31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.
- 32. Taxes and duties** 32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.
- 33. National Industrial Participation (NIP) Programme** 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.
- 34 Prohibition of Restrictive practices** 34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
- 34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

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

Js General Conditions of Contract (revised July 2010)