



**INVITATION TO BID
TERMS OF REFERENCE**

BID NO: DMSA 006/2022

**APPOINTMENT OF A SERVICE PROVIDER FOR THE PROVISION OF INSURANCE BROKING SERVICES FOR
DITSONG MUSEUMS OF SOUTH AFRICA (DMSA) FOR A PERIOD OF SIXTY (60) MONTHS, (5) YEARS.**

**CLOSING DATE AND TIME OF BID:
03 MARCH 2023 AT 11H00**

COMPULSORY BRIEFING SESSION:

VENUE:

**PIONEER MUSEUM
KEUNING DR, SILVERTON, PRETORIA, 0127**

DATE AND TIME:

22 FEBRUARY 2023 11H00

BID VALIDITY PERIOD: 120 DAYS

(Late arrivals after 11H00 will not be allowed to participate and their bids shall be declared non-responsive)

PART A INVITATION TO BID

SBD1

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)							
BID NUMBER:	006/2022	CLOSING DATE:	03 MARCH 2023	CLOSING TIME:	11H00		
DESCRIPTION	APPOINTMENT OF A SERVICE PROVIDER FOR THE PROVISION OF INSURANCE SERVICES FOR DITSONG MUSEUMS OF SOUTH AFRICA FOR THE PERIOD OF SIXTY (60) MONTHS, FIVE (5) YEARS						
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)							
DITSONG MUSEUMS OF SOUTH AFRICA, HEAD OFFICE							
70 WF NKOMO STREET							
GA MOHLE BUILDING, PRETORIA 0001							
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO				TECHNICAL ENQUIRIES MAY BE DIRECTED TO:			
CONTACT PERSON	Ms Thandi Masuku			CONTACT PERSON	Mr Nkosinathi Hlophe		
TELEPHONE NUMBER	012 492 5732			TELEPHONE NUMBER	012 492 5744		
FACSIMILE NUMBER	NONE			FACSIMILE NUMBER	NONE		
E-MAIL ADDRESS	thandim@mitsong.org.za			E-MAIL ADDRESS	nkosinathi@mitsong.org.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:

TAX CLEARANCE CERTIFICATE REQUIREMENTS

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

- 1 In order to meet this requirement bidders are required to complete in full the attached form TCC 001 "Application for a Tax Clearance Certificate" and submit it to any SARS branch office nationally. The Tax Clearance Certificate Requirements are also applicable to foreign bidders / individuals who wish to submit bids.
- 2 SARS will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of 1 (one) year from the date of approval.
- 3 The original Tax Clearance Certificate must be submitted together with the bid. Failure to submit the original and valid Tax Clearance Certificate will result in the invalidation of the bid. Certified copies of the Tax Clearance Certificate will not be acceptable.
- 4 In bids where Consortia / Joint Ventures / Sub-contractors are involved, each party must submit a separate Tax Clearance Certificate.
- 5 Copies of the TCC 001 "Application for a Tax Clearance Certificate" form are available from any SARS branch office nationally or on the website www.sars.gov.za.
- 6 Applications for the Tax Clearance Certificates may also be made via eFiling. In order to use this provision, taxpayers will need to register with SARS as eFilers through the website www.sars.gov.za.

PRICING SCHEDULE – FIRM PRICES (PURCHASES)

NOTE: ONLY FIRM PRICES WILL BE ACCEPTED. NON-FIRM PRICES (INCLUDING PRICES SUBJECT TO RATES OF EXCHANGE VARIATIONS) WILL NOT BE CONSIDERED

IN CASES WHERE DIFFERENT DELIVERY POINTS INFLUENCE THE PRICING, A SEPARATE PRICING SCHEDULE MUST BE SUBMITTED FOR EACH DELIVERY POINT

Name of bidder.....	Bid number.....
Closing Time 11:00	Closing date.....

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

ITEM NO.	QUANTITY	DESCRIPTION	BID PRICE IN RSA CURRENCY ** (ALL APPLICABLE TAXES INCLUDED)
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-
- Required by:
 - At:
.....
 - Brand and model
 - Country of origin
 - Does the offer comply with the specification(s)? *YES/NO
 - If not to specification, indicate deviation(s)
 - Period required for delivery
*Delivery: Firm/not firm
 - Delivery basis

Note: All delivery costs must be included in the bid price, for delivery at the prescribed destination.

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

*Delete if not applicable

PRICING SCHEDULE – NON-FIRM PRICES (PURCHASES)

NOTE: PRICE ADJUSTMENTS WILL BE ALLOWED AT THE PERIODS AND TIMES SPECIFIED IN THE BIDDING DOCUMENTS.

IN CASES WHERE DIFFERENT DELIVERY POINTS INFLUENCE THE PRICING, A SEPARATE PRICING SCHEDULE MUST BE SUBMITTED FOR EACH DELIVERY POINT

Name of Bidder.....	Bid number.....
Closing Time 11:00	Closing date.....

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

ITEM NO.	QUANTITY	DESCRIPTION	BID PRICE IN RSA CURRENCY **(ALL APPLICABLE TAXES INCLUDED)
-	Required by:		
-	At:		
-	Brand and model		
-			
-	Country of origin		
-	Does the offer comply with the specification(s)?		*YES/NO
-	If not to specification, indicate deviation(s)		
-	Period required for delivery		
-	Delivery:		*Firm/not firm

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

*Delete if not applicable

A NON-FIRM PRICES SUBJECT TO ESCALATION

- $$Pa = (1 - V)Pt \left(D1 \frac{R1t}{R1o} + D2 \frac{R2t}{R2o} + D3 \frac{R3t}{R3o} + D4 \frac{R4t}{R4o} \right) + VPt$$

Pa	=	The new escalated price to be calculated.
(1-V)Pt	=	85% of the original bid price. Note that Pt must always be the original bid price and not an escalated price.
D1, D2..	=	Each factor of the bid price eg. labour, transport, clothing, footwear, etc. The total of the various factors D1, D2...etc. must add up to 100%.
R1t, R2t.....	=	Index figure obtained from new index (depends on the number of factors used).
R1o, R2o	=	Index figure at time of bidding.
VPt	=	15% of the original bid price. This portion of the bid price remains firm i.e. it is not subject to any price escalations.

- | | | |
|-----------------------|-----------------------|-----------------------|
| Index..... Dated..... | Index..... Dated..... | Index..... Dated..... |
| Index..... Dated..... | Index..... Dated..... | Index..... Dated..... |

- [illegible]

B PRICES SUBJECT TO RATE OF EXCHANGE VARIATIONS

1. Please furnish full particulars of your financial institution, state the currencies used in the conversion of the prices of the items to South African currency, which portion of the price is subject to rate of exchange variations and the amounts remitted abroad.

PARTICULARS OF FINANCIAL INSTITUTION	ITEM NO	PRICE	CURRENCY	RATE	PORTION OF PRICE SUBJECT TO ROE	AMOUNT IN FOREIGN CURRENCY REMITTED ABROAD
				ZAR=		
				ZAR=		
				ZAR=		
				ZAR=		
				ZAR=		
				ZAR=		

2. Adjustments for rate of exchange variations during the contract period will be calculated by using the average monthly exchange rates as issued by your commercial bank for the periods indicated hereunder: (Proof from bank required)

AVERAGE MONTHLY EXCHANGE RATES FOR THE PERIOD:	DATE DOCUMENTATION MUST BE SUBMITTED TO THIS OFFICE	DATE FROM WHICH NEW CALCULATED PRICES WILL BECOME EFFECTIVE	DATE UNTIL WHICH NEW CALCULATED PRICE WILL BE EFFECTIVE

PRICING SCHEDULE
(Professional Services)

NAME OF BIDDER:	BID NO.:
CLOSING TIME 11:00	CLOSING DATE.....

OFFER TO BE VALID FORDAYS FROM THE CLOSING DATE OF BID.

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

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

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 contributions and skills development levies.

Name of Bidder:

- 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 –

(INSERT NAME AND ADDRESS OF DEPARTMENT/ENTITY)

Tel:

Or for technical information –

(INSERT NAME OF CONTACT PERSON)

Tel:

DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state¹, 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 a price quotation, advertised competitive bid, limited bid or proposal). 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, shareholder²):
 - 2.4 Company Registration Number:
 - 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.

¹"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.

²"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 attached 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**

.....

.....

.....

YES/NO

.....

.....

.....

YES/NO

.....

.....

.....

[illegible]

4 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 IN TERMS OF
PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION
PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

May 2011

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

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

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

1. GENERAL CONDITIONS

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

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

1.2 **To be completed by the organ of state**

(delete whichever is not applicable for this tender).

- a) The applicable preference point system for this tender is the **80/20** preference point system.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and
(b) Specific Goals.

1.4 **To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	
SPECIFIC GOALS	
Total points for Price and SPECIFIC GOALS	100

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

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

2. DEFINITIONS

- (a) **“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) **“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) **“tender for income-generating contracts”** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) **“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

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

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

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

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

3.2.1. POINTS AWARDED FOR PRICE

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

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

Where

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

4. POINTS AWARDED FOR SPECIFIC GOALS

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

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

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

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

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Enterprises with ownership of 51% or more by person/s who are black	3	5		
Enterprises with ownership of 51% or more by person/s who are women	2	5		
Enterprises with ownership of 51% or more by person/s who are youth	2	4		
Enterprise with ownership of 51% or more by person/s with disability	1	2		
Enterprises with ownership of less than 51% by person/s who are black or less than 51% by person/s who are women or less than 51% by person/s who are youth or less than 51% by person/s with disability	0	0		
Enterprises with ownership Exempt Micro Enterprise	1	2		
Enterprises with ownership Qualifying Small Enterprise (QSE)	1	2		
Total	10	20		

DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm.....

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
 - (a) disqualify the person from the tendering process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution, if deemed necessary.

.....
SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME:

DATE:

ADDRESS:
.....
.....
.....



TERMS OF REFERENCE

BID NO: DMSA 006/2022

APPOINTMENT OF A SERVICE PROVIDER FOR THE PROVISION OF INSURANCE BROKING SERVICES TO DITSONG MUSEUMS OF SOUTH AFRICA (DMSA) FOR A PERIOD OF FIVE (5) YEARS.

CLOSING DATE AND TIME OF BID:

03 MARCH 2023 11H00

COMPULSORY BRIEFING SESSION:

VENUE:

**PIONEER MUSEUM
KEUNING DR, SILVERTON, 0127**

DATE AND TIME:

22 FEBRUARY 2023 11H00

BID VALIDITY PERIOD: 120 DAYS

(Late arrivals after 11H00 will not be allowed to participate and their bids shall be declared non-responsive)

1. INTRODUCTION AND BACKGROUND

Ditsong Museums of South Africa (DMSA) is a schedule 3A public entity, accountable to the Department of Sport, Arts and Culture (DSAC) and Parliament. DMSA develops, manages and administers some of the largest and most significant Southern African heritage assets in the fields of fauna, palaeontology, cultural history, anthropology, archaeology and military history, which require constant monitoring of the sustainable and responsible custodianship of these irreplaceable national heritage assets.

2. PURPOSE OF THE REQUEST FOR BID

- 2.1 The purpose of the request for the Bid is to appoint an insurance broker to provide provision of insurance broking services. **The appointment will be for a period of five (05) years commencing on the date of signing a Service Level Agreement** to provide the following services:
 - 2.1.1 Insurance services for assorted DMSA assets registers, including heritage assets, living resources, fixed assets registers and current assets. Securing, not limited to, other short-term insurance coverage such as Public Liability, Professional Indemnity, Building (Ditsong Sammy Marks house and five (5) cottages, Ditsong Kruger house, Ditsong Pioneer house, Ditsong Willem Prinsloo Agricultural museum, 1880 house, 1913 house and 1927 house). Directors and Officers general liability, personal injury, employment practice liability, business interruption cover, cyber cover, vehicle cover, goods in transit cover, theft, armed robbery resulting in the loss of personal belongings i.e. but not limited to; cash, Identity card and drivers licence, hijacking, public liability, livestock diseases, riots, natural disasters, stock theft, and any other emerging liability risks.
- 2.2 The services to be rendered as a Short-Term Insurance Broker over the 5-year period should include general services related to the placement, transfer, transition, handover, regular update, maintenance and administration of the insurance portfolio.

3. SCOPE OF WORK

3.1 PERFORMANCE SPECIFICATION

3.1.1 The scope of services required from the insurance broker shall include:

- Administration to obtain required insurance cover;
- Claims administration, including claims logging and tracking.
- Facilitating the relationship with the appointed insurers and underwriters;
- Quarterly and annual reporting;
- Advice to DMSA on its short-term insurance portfolio;
- Transition/handover plan to take over the insurance broking services should the tender be awarded to a new service provider.
- Insurance cover for the key personnel as per DMSA Organogram and Council members.

3.1.2 The insurance broker should be able to review and advise on the short-term insurance requirements of DMSA, have the necessary expertise, capacity and resources to efficiently respond to insurance enquiries and the needs of the entity. The appointed broker will be required to provide guidance on the best and cost efficient insurance portfolio for DMSA. Proposals should set out how their services will assist and benefit DMSA in this regard.

4. Below is a detailed breakdown of the scope for the performance specifications.

4.1. Administration

4.1.1. The insurance broker will provide broker support services to DMSA to manage short term insurance portfolio, in particular, the service provider must:

- a) Advise and consult with DMSA on its short-term insurance portfolio renewal strategy, from time-to-time.
- b) Obtain required short-term insurance cover for DMSA from the insurance industry based on the needs of DMSA, the current prevailing market conditions and the insurance products that are available to mitigate the risks as identified and deliver the policy contracts within agreed timelines.
- c) Assist in the claims process by ensuring that claims are submitted correctly, provide replacements quotes, compile and submit incident reports with portfolio of evidence on time i.e. one calendar month.

- d) Liaise with DMSA and implement DMSA instructions concerning claims which have potential legal implications and recommend a solution thereof.
- e) Ensure that all claims lodged with the insurers are supported by all the relevant documentation (incident report, police statement and case number, pictures, replacements quotations and banking details) to ensure efficient settlement.
- f) Ensure that DMSA's contractual rights are protected and enforced.
- g) Act in DMSA's interest in all dealings with the appointed insurers and underwriters.
- h) Ensure that the insurance broker's personnel appointed to work on DMSA account fully understand the insurance broker's obligations under the brokers' code of conduct and any other guidelines that may be issued by a regulatory body having jurisdiction over the service provider.

5. Render the following to DMSA every quarter:

- 5.1. Reconciliation of all claims data;
- 5.2. Quarterly monitoring of data movements in respect of the activities on the short-term insurance portfolio and claims register; and
- 5.3. Performance report recording any failures to achieve service levels, the causes of the failures and a summary of steps taken to resolve the failures and avoid them in the future.

6. Annual reporting.

7. Timely invoicing of DMSA for premiums due for the insurance cover taken.

7.1. Communication to DMSA

7.1.1. The insurance broker shall be responsible for the following on an ongoing quarterly or annual basis as appropriate:

- a) Update DMSA on legal developments within the short-term insurance industry and inform DMSA on short-term insurance product developments and the risk mitigation developments in the South African market.
- b) Provide appropriate advice on the short-term insurance portfolio, in the event DMSA requests such advice.
- c) On-going evaluation of uninsured risks and possible options for addressing them.
- d) Review DMSA's short-term insurance portfolio in consultation with DMSA's CEO and CFO.
- e) Assist DMSA with the interpretation of insurance policy documents and matters incidental thereto, including the interpretation of insurance rules and regulations.

7.2. Claims

7.2.2. The insurance broker will be responsible for the management of claims and, for the sake of clarity, claims management needs include:

- a) Follow up on all outstanding and progress of claims.
- b) Receiving claims from DMSA and submitting these to the insurer on a timely basis.
- c) Informing DMSA of outstanding documents on claims, if applicable.
- d) Informing DMSA when payments are made by insurers.
- e) Ensuring correct calculation and payment of benefits by an insurer
- f) Interacting with an insurer where claims are repudiated.
- g) Closely liaise with DMSA with regards to claims which have potential legal implications and recommendations thereof.

8. Policy Documents

The insurance broker will be responsible for:

- 8.1. Arranging on behalf of DMSA for the timely issuing of the necessary policy contracts by an insurer.
- 8.2. Continuously negotiate beneficial policy conditions for DMSA with an insurer.

9. Transition

The insurance broker must:

- 9.1. Deliver a transition plan to DMSA, which sets out how it will take over the services from the previous service provider and how it will set up its service delivery capability to deliver the services, as per their agreement.
- 9.2. Assist with the handover to a new service provider at the expiration or earlier termination of the Agreement.

10. TECHNICAL REQUIREMENTS

- 10.1. The appointed insurance broker will source a minimum of five (5) quotations, analyse the quotations for suitability to DMSA's needs and make recommendations. The broker will be sourcing quotations and facilitating agreements with insurers on behalf of DMSA for the following:

- General insurance for assorted assets insurance
- Crime and civil liability
- Directors and Officers liability
- Professional indemnity
- Provide comprehensive insurance cover for losses which may be incurred due to:
 - Property theft and vandalism
 - Accidental damages
 - Natural causes which may bring losses/damages to any asset
 - Operational risks
 - Public liability
 - Fire
- Comprehensive vehicle cover including roadside assistance
- Business all risks
- Cyber insurance
- Lost assets
- Fraud cover

10.2. The broker must offer any other business insurance product available to DMSA.

NOTE: DMSA's asset register will ONLY be provided to bidders who attend the compulsory briefing session.

11. EVALUATION STAGES

11.1. The bid evaluation process consists of several stages that are applicable as defined in the table below:

Stage	Description	Applicable for this bid
Stage 1 A	Compulsory briefing session	Yes
Stage 1 B	Initial screening process to check compliance with bid requirements (administrative compliance)	Yes
Stage 2	Functionality requirement evaluation	Yes
Stage 3	Price and Special goals evaluation	Yes

11.1.1. Stage 1B:

Verification of service provider(s) compliance with bid requirements and initial screening process (administrative compliance).

11.1.2. Stage 2:

The Technical proposal will be evaluated out of 100 points with a threshold of 70 points. Bidders must score a minimum of 70 or more points to qualify for further evaluation on price and preference points. Bidders that score less than a minimum of 70 points will be disqualified.

11.1.3. Stage 3:

- Bids will then be evaluated in accordance with the prescripts of the Preferential Procurement Policy Framework Act (PPPFA) (No. 5 of 2000) and the associated Preferential Procurement Regulations of 2022, which stipulate an 80/20 preference point system is applicable up to a rand value of R50 million (all applicable taxes included).
- Where Special goals points are claimed, a certified copy of the BBBEE certificate must be attached. Bidders must submit proof thereof e.g. Affidavits in respect of Women, Youth, and People with Disability
- The points for this bid are allocated as follows:

No	Components	Points
1.	Price	80
2.	Preferential special Goals	20
	Total	100

- The following table will be used to calculate the score out of 20 points for acquisition of goods and services may be awarded to a tenderer for specific goals specified for the tender as follows:

Specific goals	80/20 points System
Historically Disadvantaged individual (HDI)	
Enterprises with ownership of 51% or more by person/s who are black	5
Enterprises with ownership of 51% or more by person/s who are women	5

Enterprises with ownership of 51% or more by person/s who are youth	4
Enterprise with ownership of 51% or more by person/s with disability	2
Enterprises with ownership of less than 51% by person/s who are black or less than 51% by person/s who are women or less than 51% by person/s who are youth or less than 51% by person/s with disability	0
Enterprises with ownership Exempt Micro Enterprise	2
Enterprises with ownership Qualifying Small Enterprise (QSE)	2
Total	20

12. EVALUATION PROCESS

- 12.1. The 80/20 preference point system in terms of the Preferential Procurement Policy Framework Act (No. 5 of 2000) shall apply. The lowest acceptable bid will score 80 points for price and the remaining 20 points for special goals.
- 12.2. Prospective bidders will have to score at least 70 out of 100 points allocated for functionality before the bidder's proposal will be considered for pricing.

13. FUNCTIONALITY EVALUATION

- 13.1. All bids duly lodged will be evaluated by a Bid Evaluation Committee first on functionality then price.
- 13.2. For purposes of comparison and in order to ensure meaningful evaluation, bidders are requested to furnish detailed information in substantiation of compliance to each of the evaluation criteria mentioned below.
- 13.3. The functionality criteria that will be utilised to test the capacity of the service provider are set out below. Bids will be evaluated by using the 80/20 preference point system as set out in the Preferential Procurement Policy Framework Act 2000 (No. 5 of 2000).
- 13.4. Bidders that do not meet these minimum requirements at this stage will be regarded as submitting a non-responsive document and will not be considered for further evaluation

14. FUNCTIONALITY CRITERIA

- 14.1. Bidders must score at least 70% out of 100% points on functionality to be considered to phase two. Bidders who score less than 70% for phase one will be disqualified and will not be considered for phase two.

Values: 1= Poor; 2 = Average; 3= Good; 4=Very Good; 5 = Excellent

CRITERIA	SUB-CRITERIA	WEIGHTING/ POINTS
CAPABILITY AS TO HOW THE BIDDER ENSURES THE BEST QUOTES	1. Insurers and/or Underwriters (10 Points) - The Bidder must describe how they will ensure the best quote/quotations for DMSA e.g. competitive premiums and minimal exclusions. Five (5) quotations with minimal exclusions. 2. Knowledge sharing (5 Points) - The Bidder must provide details of how they will ensure that DMSA stays up-to-date with developments in the market 3. Value add capabilities and services offered (10 Points) - The Bidder must provide details of the capability/service and tools that can provide additional value to DMSA. In this regard, the Bidder must clearly state whether the tools and capabilities listed would be separately charged if DMSA should elect to make use of. (Each suggested additional capability will be equivalent to 2 points. 4. References (10 Points) - The Bidder must provide written references from five (5) different clients to whom the Bidder is providing or has provided Services similar in nature to those requested by DMSA in the past five (5) years. Each reference letter is equivalent to 2 points. NB: The Bidder must provide different written references from its clients and not that of its sub-insurance brokers. The aforesaid references must be on the client's letterhead and signed by the company Director and/or as per company delegation of authority	35 POINTS

REPORTING	Compulsory Reporting: A template of a quarterly reconciliation of claims. (No template no points)	10 POINTS
RISK MANAGEMENT (WHAT COVER WILL BE TAKEN?)	1. Determining DMSA Risk and Need (15 Points) - The Bidder must outline the process of identifying and mitigating the risks that DMSA may be exposed to. One point per risk identified and mitigation thereof. 2. Transition Plan (10 Points) - The Bidder must describe in detail the approach it will adopt to take over the existing Services from the current Service Provider with time lines.	25 POINTS
ADMINISTRATION (CLAIMS LOGGING AND TRACKING)	The Bidder must describe: - The interval system used in claims logging and tracking (10 points) - Physical inspection = 2 Points - Incident report = 2 Points - Assessment report = 2 Points - Logging and tracking the claim = 2 Points - Settlement = 2 Points - The system's capabilities and potential benefits to DMSA (10 points) - The bidder must list five capabilities and five potential benefits; each capability and potential benefit is equivalent to one point	20 POINTS
BIDDERS PROFILE	The Bidder must describe: - Details of staff members who will be handling the DMSA account including the Account Manager. (Attach CV) (5 points) 5 Years = 5 Points 4 Years = 4 Points 3 Years = 3 Points 2 Years = 2 Points 1 Year = 1 Point Less than 1 Year = 0 Points - Escalation level in terms of handling queries related to the account. Bidders must outline the escalation process. (5 points) A point per escalation process.	10 POINTS
TOTAL		100

15. PRICING

15.1. Bidders must submit the pricing proposal as guided below and pricing must be in the South African currency (inclusive of VAT).

Section / Category	Insured Amount	Tarif (excl. Broker Fee)	Annual Premium	SASRIA	Total Annual Premium
[A]	[B]	[C]	[D] (B x C)	[E]	[F] (D + E)
Office Contents					
Fire and natural disasters					
Money					
Theft					
Business All Risks					
Business Interruption					
Fidelity cover					
Fraud					
Goods in transit*					
Public liability incl. employer's liability arrest and legal defence costs, products liability, defective workmanship					
Motor vehicle					
Electronic equipment					
Accidental damage					
Heritage assets					
SASRIA					
Directors & Officers / 3 rd party liability					
Commercial Umbrella liability					
Buildings					
Miscellaneous (provide list)					
Cyber Insurance					
Broker Fee					

***Heritage assets and other assets in transit including cash to or from DMSA** All instructions regarding the format of the proposal must be followed, failing which bidders may be excluded from the rest of the bidding process. Please ensure you comply fully with all requirements set out in the tender document

16. BID REQUIREMENTS

The following is required of bidders and should be submitted to DMSA as part of the bid submission:

- 16.1. Company profile.
- 16.2. All Bidders must be registered on the National Treasury Central Supplier Database (CSD) and must attach a copy of the most recent report to the tender document.
- 16.3. The tax status on CSD must be compliant, as DMSA is unable to award a contract to a bidder whose tax affairs are not in order as determined by SARS. Bidders whose tax matters have expired or whose compliance status is invalid will be disqualified. **Note that it is no longer a requirement for bidders to submit hard copies of tax clearance certificates as compliance with tax matters can be assessed and verified on the CSD report.**
- 16.4. **Original and valid and/or certified** copy of BBBEE status level certificate. Failure to submit a valid BBBEE certificate will result in zero points being awarded for BBBEE. BBBEE certificates or affidavits must be valid at the time of the closing of the tender.
- 16.5. **Additional proof of documents must be submitted to claim points for special goals**
- 16.6. Original Bidder Resolution or Letter of authority or Letter of appointment authorising the signatory of the Entity to sign the contract with DMSA.
- 16.7. Valid contact details including e-mail address.
- 16.8. Bidders are requested to provide one original of the necessary documents such as a certified Identity Document and one copy of all documents.
- 16.9. Companies registered for VAT should include VAT on their costing.

17. CONFIDENTIALITY

- 17.1. No information or documentation may be used for any other purpose other than providing for a tender proposal to DMSA, and no copies of any document may be made, except with prior written approval from DMSA.
- 17.2. The successful bidder and staff will be required to sign a non-disclosure agreement.

18. INTELLECTUAL PROPERTY AND OWNERSHIP

- 18.1. Ownership and copyright of all documentation developed during the period of the contract will be vested in DMSA.
- 18.2. All intellectual property rights relating to any work produced by the service provider concerning the performance of this contract shall belong to DMSA and may not be used for any other purpose by the service provider. The service provider shall give DMSA all assistance in protecting such intellectual property rights. All material, in paper, electronic or any recorded format produced by the service provider in the performance of this contract shall remain the property of DMSA and must be handed over to DMSA on termination of the contract.
- 18.3. All service providers undertake not to infringe the intellectual property of third parties. Should any action or claim be instituted against DMSA emanating from an infringement of intellectual property or an alleged infringement of intellectual property, the service providers hereby indemnify DMSA against such claims or actions as well as all costs (including legal costs on an attorney and client scale).

19. LEGISLATIVE AND REGULATORY FRAMEWORK

- 19.1. This bid and all contracts emanating from this bid will be subject to the General Conditions of Contract issued in 2010 in accordance with the Treasury Regulations 16A, published in terms of the Public Finance Management Act (No. 1 of 1999).
- 19.2. The Special Conditions of Contract are supplementary to that of the General Conditions of Contract of 2010. Where, however, the Special Conditions of Contract conflict with the General Conditions of Contract, the Special Conditions of Contract take precedence.

20. CONTRACTUAL ARRANGEMENT

- 20.1. The service provider is required to enter into a Service Level Agreement (SLA) with DMSA to perform all functions as set out in the project specification or Terms of Reference and National Treasury General Conditions of Contract of 2010.

21. FINANCIAL IMPLICATIONS

- 21.1. No service will be provided to DMSA before an official order has been issued to the supplier or service provider.
- 21.2. The service provider should be aware that DMSA only pays after the services have been rendered.
- 21.3. Payments will be done within 30 days of receipt of an invoice with all required supporting documents as per the Service Level Agreement.
- 21.4. Payments will be made by DMSA after the service provider has submitted an invoice supported by all requisite documents.

22. CLIENT BASE

- 22.1. DMSA reserves the right to contact references during the evaluation and the adjudication process to obtain information.

23. COMMUNICATION

- 23.1. DMSA may communicate with bidders where bid clarity is sought to obtain information or to extend the validity period.

24. SUPPLIER DUE DILIGENCE

- 24.1. DMSA reserves the right to conduct supplier due diligence prior to the final award or at any time during the contract period. **Bidders must note that DMSA will conduct the verification on the information submitted and any misrepresentation will result in an automatic disqualification.**

25. CONFLICT OF INTEREST

- 25.1. The bidder or bidders group must submit a document (this must be included in the covering letter), stating whether any of its employees have any interest in DMSA or whether any of DMSA's personnel have any interest in the bidders or affiliated business.

26. PACKAGING OF BID

- 26.1. Bidders are requested to arrange the Standard Bidding Documents (SBD) submission in a numerical order (**Two-envelope system**).
- 26.2. Bidders are requested to separate Technical bids from the financial bids, (**Two-envelope system**).
- 26.3. Failure to adhere to the above i.e., 26.1 & 26.2 shall invalidate/ disqualify a bid.
- 26.4. Memory stick (Flash Drive) must contain a soft copy of a proposal (Envelope 1 & 2).

27. COMPULSORY BRIEFING SESSION

Bidders failing to attend the Compulsory Briefing Session will be disqualified automatically and their bids will be regarded as non-responsive.

27.1. Compulsory Briefing Session

Date : 22 February 2023

Time : 11h00 (Bidders arriving late will not be allowed into the briefing session)

Venue : Ditsong: Pioneer Museum
Keuning Street
Silverton

28. SUBMISSION OF BID DOCUMENTS

- 28.1. Bidders are advised to ensure that bids are submitted allowing sufficient time for any unforeseen events that may delay the delivery of the bid and time to access DMSA premises.
- 28.2. All bidders are required to complete a bid register when submitting bid documents. The Bid register is available at the below-mentioned address. **Compliance with Covid 19 is to be observed.**

- 28.3. Bidders should deposit their documents into the tender box available on the Ground Floor reception area by **11H00** am at the address below:

**DITSONG: Museums of South Africa, Head Office, 70 WF Nkomo
Street, GaMohle Building Pretoria.**

29. COST OF BIDDING

- 29.1. The bidder shall bear all costs associated with the preparation and submission of its bid and DMSA will not be held responsible for these costs regardless of the conduct or outcome of the tender process. The bidder will not be entitled to claim for travel and subsistence expenses. If such expenses are applicable, these charges must be included in the bid price.

30. PRICE OR FEES NEGOTIATION

- 30.1. DMSA may negotiate the price or fees with the preferred bidder during a competitive bidding process.

31. LATE BIDS

- 31.1. Bids are received at the address indicated above. Bids received after the closing date and time will not be accepted for consideration and will be returned unopened to the bidder. Bids documents should be submitted before 11:00 am on the closing date of the tender.

32. BID AND TECHNICAL ENQUIRIES / CLARIFICATION OF TENDER DOCUMENTS

- 32.1. DMSA will respond per email to any request for clarification of the tender documents which it receives **no later than one (1) week prior to the deadline for submission of bids prescribed by DMSA**. All enquiries related to the technical content of the Terms of Reference as well as the bid enquiries may be directed **in writing** to the officials listed below:

For Bid Enquiries

Ms Thandi Masuku
Tel: (012) 492 5732
Email: Thandim@mitsong.org.za

For Technical Enquiries:

Mr Nkosinathi Hlophe
Tel: (012) 492 5744
Email: nkosinathi@mitsong.org.za

THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT

July 2010

GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT
July 2010

NOTES

The purpose of this document is to:

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

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

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

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General Conditions of Contract

1. Definitions

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

RSA.

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

obligations of the supplier covered under the contract.

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

2. Application

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

3. General

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

4. Standards

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

5. Use of contract documents and information; inspection.

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

6. Patent rights

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

7. Performance security

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

8. Inspections, tests and analyses

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

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

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

9. Packing

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

10. Delivery and documents

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

11. Insurance

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

12. Transportation

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

13. Incidental services

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

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

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

14. Spare parts

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

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

15. Warranty

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

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

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

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

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

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

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| 16. Payment | <p>16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.</p> <p>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.</p> <p>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.</p> <p>16.4 Payment will be made in Rand unless otherwise stipulated in SCC.</p> |
| 17. Prices | <p>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.</p> |
| 18. Contract amendments | <p>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.</p> |
| 19. Assignment | <p>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.</p> |
| 20. Subcontracts | <p>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.</p> |
| 21. Delays in the supplier's performance | <p>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.</p> <p>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.</p> <p>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.</p> <p>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</p> |

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

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

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

22. Penalties

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

23. Termination for default

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

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

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

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

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

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

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

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

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

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

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

24. Anti-dumping and countervailing duties and rights

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

may be due to him

25. Force Majeure

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

26. Termination for insolvency

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

27. Settlement of Disputes

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

28. Limitation of liability

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

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

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