human settlements

Department:
Human Settlements
REPUBLIC OF SOUTH AFRICA

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**REFERENCE: VA49/03 - 2024/25**
**ENQUIRIES : tendersenquiries@dhs,gov.za**

**BID VA49/03 - 2024/25: THE APPOINTMENT OF A SERVICE PROVIDER FOR SECURITY GUARDING SERVICES FOR A PERIOD OF THIRTY-SIX MONTHS**

1 **You are invited to bid for the services as specified in the attached forms.**

2 The closing date and time for submission of bid documents is **21 November 2024 @ 11:00**. **No late bids documents will be considered. All bids must please be deposited in the Tender Box situated at the main entrance of (DR. RUTH MOMPATI BUILDING, 260 JUSTICE MAHOMED STREET, SUNNYSIDE, PRETORIA)**

3 **It is compulsory that an original proposal/bid documents to be handed in on the closing date and time of the bid.**

4 The conditions contained in General Conditions of Contracts (GCC) and the attached SBD1, SBD 3.3, SBD4, SBD 6.1, 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 Central Supplier Database (**CSD**).

**5.2** Please submit an original Bid document/Proposal and a USB

**6. COMPULSORY BRIEFING SESSION**

**6.1 A Compulsory Briefing Session will be held as follows:**

**VENUE: The National Department OF Human Settlements, Govan Mbeki House, 240 Justice Mohamed Street, Sunnyside, Pretoria (MAIN BOARDROOM)**
**DATE: 12 November 2024**
**TIME: 10:00**

7 **All enquiries relating to this bid must be addressed to tendersenquiries@DHS.gov.za**

Regards

SUPPLY CHAIN MANAGEMENT
**For: DIRECTOR-GENERAL**
**DATE**: 29/10/2024
tendercovlet

# THE DEPARTMENT OF HUMAN SETTLEMENTS

**BID NUMBER:** ***BID: VA49/03 – 2024/25***

**DESCRIPTION: SECURITY GUARDING SERVICES**

**CLOSING DATE and TIME: 21/11/2024 @ 11:00**

## CHECKLIST TO BE COMPLETED BY BIDDERS

| ***TABLE OF CONTENTS:*** | **Yes** | **No** |
|---|---|---|
| ➢ **Invitation Letter/ Cover Letter** | | |
| ➢ **(TOR) Terms of Reference** | | |
| ➢ **POPIA Checklist** | | |
| ➢ **SBD1 Invitation To Bid** | | |
| ➢ **SBD3.3 Pricing Schedule** | | |
| ➢ **SBD4 Declaration of Interest** | | |
| ➢ **SBD6.1 Preference Point: Purchases** | | |
| ➢ **General Conditions of Contract** | | |
| | | |
| ***SUPPORTING DOCUMENTS REQUIRED:*** | | |
| ➢ **Company Profile** | | |
| ➢ **ID Copies of Directors** | | |
| ➢ **Certificate issued by Registrar of Companies & Close Corporation, issued by CIPRO.** | | |
| ➢ **CSD Status Report** | | |
| **COMPULSORY TO SUBMIT** <br> ***** 1 ORIGINAL PROPOSAL, 1 ORIGINAL FINANCIAL PROPOSAL and 1 USB ***** | | |

**COMPANY NAME:** ______________________________

**DESIGNATION:** ______________________ **SIGNATURE:** ______________________

**DATE:** ______________________

**TERMS OF REFERENCE FOR**

**THE APPOINTMENT OF A SERVICE PROVIDER FOR SECURITY GUARDING SERVICES FOR A PERIOD OF THIRTY-SIX MONTHS**

human settlements

Department:
Human Settlements
REPUBLIC OF SOUTH AFRICA

## 1 INTRODUCTION

National Department of Human Settlements intends to appoint a service provider with the required knowledge and experience to provide security guarding services in all its buildings, i.e. 240 and 260 Justice Mahomed Street, Sunnyside, Pretoria. Pretoria. The appointed service provider will render these services to the Department for thirty-six (36) months terms in of the Private Security Industry Regulatory Act (Act 56 of 2001), Control of Access to Public Premises and Vehicle Act (Act 53 of 1985) amended and other legislations of the Republic of South Africa

## 2. BACKROUND

2.1 The Directorate: Security and Facilities Management is responsible for managing the development and implementation of protective security functions in the Department. This includes but is not limited to, managing the Physical Security functions to ensure that departmental assets are secured and protected.

## 3. PROBLEM STATEMENT

3.1. The Department is utilising an outsourced private security company to complement the limited in-house security officers in rendering the required physical security measures.

## 4. SCOPE OF WORK

4.1 The appointed service provider will be expected to:

4.1.1 Provide security guarding services 24 hours a day,7 days a week (including Public Holidays) at all the designated sites i.e. 240 and 260 Justice Mahomed Street, Sunnyside, Pretoria.
4.1.2 Provide general security guarding services in terms of the Access to Public Premises and Vehicles Act as well as conditions of the Private Security Industry Regulatory Act (PSIRA) ensuring that security checks are carried out at entrance and exit points.
4.1.3 Provide guarding and securing all departmental assets, personnel, and information of the department.
4.1.4 Conduct searching of cars and visitors at the gates during entry and egress.
4.1.5 Complete the occurrence book hourly and upon the occurrence of incidents.
4.1.6 Perform quarterly risk assessments of the two sites.
4.1.7 Operate all electronic access control security systems installed in the designated service buildings, such as scanning machines and metal detectors.
4.1.8 Ensure that persons removing any state equipment have valid authorization for such, and that such removals are properly recorded in Registers.
4.1.9 Perform patrol duties at intervals determined by the department.
4.1.10 As part of the contract, provide necessary security assistance during emergency operations in all designated sites.

4.2 Security officer's responsibilities
4.2.1 Perform access control on the premises by ensuring that security checks are out at the main gates and site inspection.
4.2.2 Provide guarding and securing all departmental assets, personnel, and information of the department.
4.2.3 Complete the occurrence book hourly and upon the occurrence of incidents.
4.2.4 Conduct searching of cars and visitors at the main gate during entry and egress.
4.2.5 Assist during emergencies and fire drills
4.2.6 Conduct patrols and guard vehicles parked in front of the two buildings.

4.3 Security supervisor's responsibilities

4.3.1 Supervising all security officer's deployed at 240 and 260 Justice Mahomed Buildings
4.3.2 Ensure that all occurrence books are completed, and incidents recorded.

4.4 Security Aids/Equipment to be Provided by The Bidder

| |
|---|
| 1 X Base radio (to be programmed to contractor's frequency) |
| Handheld radios for both 240 and 260 Justice Mahomed Street Buildings |
| Rechargeable torches for both 240 and 260 Justice Mahomed Street Buildings |
| Handheld metal detectors for both 240 and 260 Justice Mahomed Street Buildings |
| Batons |
| Pocket books |
| Handcuffs |
| Whistle for each security officer |
| Fully installed patrol point systems on both buildings |

| |
|---|
| Occurrence books |
| One serviceable cell phone with airtime per building |

4.5 The successful service provider will be expected to enter into a Service Level Agreement (SLA) with the Department, which stipulates fee structure, payment schedules as well as any other applicable terms and conditions.

## 5. DELIVERABLES

### 5.1 GUARDING SERVICES

5.1.1 Provide/perform general security guarding services in terms of the Access to Public Premises and Vehicles Act as well as conditions of the Private Security Industry Regulatory Act (PSIRA) ensuring that security checks are carried out at the main gate and inspection of the site

| ACTIVITIES | DELIVERABLES | TIMEFRAME | % OF PAYMENT |
|---|---|---|---|
| Security Guarding Services | Secure assets and personnel | Monthly for 36 times | 100% monthly services rendered |
| | | | |

| |
|---|
| **GUARDING SERVICE REQUIREMENTS** |
| **Private Security Industry Regulatory Authority** |
| The Company and its Directors is registered in terms of the Private Security Industry Regulatory Act (Act 56 of 2001)<br>Proof of registration thereof, must be attached to the tender document. |
| All security Officers that the successful bidder supplies to render the service must be registered as Security Officers in terms of the Private Security Industry Act (Act 56 of 2001) |
| Copies of registration documents in respect of all the Security Officers must be supplied to Director: Security Management, National Human Settlements within seven (7) days after commencement of service. |
| **Security Officers** |
| The successful bidder shall, in order to ensure the continuity of services to be rendered, allocate specific personnel to specific sites according to departmental requirements. |
| Replacement of any security personnel may only be executed with prior consent of the Director: Security Management (National department of Human Settlements) or his delegate. |
| **Legislative Compliance** |

| |
|---|
| The successful bidder shall pay his/ her employees at least the minimum monthly basic wage, as prescribed by the law (Order for the Security Services Trade) and the Determination Act.<br>Such wages must be in line with grades which the security officers must have acquired at deployment to the National Department of Human Settlements sites.<br>The Department reserves the right to request such proof. Non-compliance with all relevant regulations pertinent with PSIRA regulations and other related legislative requirements will constitute a breach of contract.<br>The security officials to be deployed on site will be employed by the Service Provider and any costs related to salaries, HR and Labour Relations compliance matters and any other matter will be at the expense of the Service Provider. The registration with the department of employment and labour in terms of compensation for injuries and diseases Act to be up to date and a letter of good standing to be submitted before commencement of the project and thereafter on annual intervals for the duration of the project. |
| **Assumption of duty** |
| Successful bidder must be able to assume duty within two (02) weeks, after acceptance of the tender. |
| **Security Services** |
| The quality of services to be rendered must be in accordance with acceptable trade standards.<br><br>The successful bidder shall take all possible steps to ensure that the intended execution of this agreement will take place, including, inter alia:<br>• Protection of state officials from injury, death or any other offences, including offences referred to in Schedule 1 of the Criminal Procedure Act, 1977 (Act 51 of 1977),<br>• Protection of state property against damage, vandalism or theft at the identified sites.<br>• Protection of State Information. |
| **Security personnel** |
| Security officers should possess the following qualifications:<br>• Minimum of Grade 10<br>• PSIRA Grade C for officers and Grade B for supervisors.<br>• Good communication skills (speak, read and write) |
| No security personnel may be allowed to work a shift longer than twelve (12) hours in a day. |
| The successful bidder must submit a recent SAPS Criminal Record Centre record clearance certificate (at his/her own expense) to the National Department of Human Settlements, within fourteen (14) days after commencement of the service. |
| **Security screening, Oath of Secrecy and Vetting** |
| The Company including its Directors shall be subjected to a security vetting process prior to awarding of tender. |
| All personnel of the company shall sign a *Declaration of Secrecy* upon commencement of the contract. |
| Security Officers are prohibited from reading documents or records in offices or handling thereof. |

| |
|---|
| No information concerning the State's activities may be furnished to the Public or media by the Service Provider or any of his/her employees. |
| **Uniforms, Identification and documents.** |
| The service provider shall ensure that each member of his/her security personnel is at all times when on duty fully equipped in respect of a neat and clearly identifiable uniform of the company and an identification card with the member's photo. (No combat uniform is allowed). |
| Successful bidder must keep files as well as appropriate documents of all security personnel, who are employed rendering the service to the National Department of Human Settlements. These documents must be available for inspection by representatives of the National Department of Human Settlements. |
| **Contact with Departmental Representative** |
| The Site Manager must immediately report any abnormal and or noteworthy incident to the Director: Security Management or his delegate. |
| Scheduled monthly meetings between the Department and the service provider will be held at departmental premises. |

## 5.2 SECURITY OFFICERS REQUIRED

| **260** Justice Mahomed Street, Sunnyside\ |
|---|
| <u>**Day Shift:**</u> 06h00-18h00<br><br>11 Grade C Security Officers<br><br><u>**Night Shift:**</u> 18h00-06h00<br><br>5 Grade C Security Officers |

| **240** Justice Mahomed Street, Sunnyside |
|---|
| <u>**Day Shift:**</u> 06h00-18h00<br><br>08 Grade C Security Officers<br>1 Grade B Supervisor (Both Buildings 240 and 260 JMS)<br><br><u>**Night Shift:**</u> 18h00-06h00<br><br>5 Grade C Security Officers<br>1 Grade B Supervisor (Both Buildings 240 and 260 JMS) |

| TOTAL NUMBER OF SECURITY OFFICERS REQUIRED |
|---|
| **2 X Grade B Officers**<br>**29 x Grade C Officers** |

## 6. REQURED EXPERTISE AND SKILLS

### 6.1 The Bidder;

6.1.1 must demonstrate knowledge and experience in the security industry, especially guarding services; the capacity to manage such a project is a prerequisite.

6.1.2 Company, its directors and personnel must be registered with PSIRA and have a positive security clearance(s).

6.1.3 to provide company profile, with in depth documented information, must be attached to the bid document to enable the Department to ascertain that, the bidder's security business meets the requirements regarding the infrastructure and capacity necessary to render the sought security services.

6.1.4 proposal must include a workplan on how the security service will be deployed, including a health and safety plan and contingency plans.

6.1.5 must have insurance to cover for any theft or vandalism of NDoHS property which will occur because of negligence on the part of the Service Provider. Attach proof of insurance failure to submit proof of insurance will disqualify the bid.

6.1.6 may consider current human staff compliment that are currently deployed at

the Department for smooth continuation of services.

### 6.2 Security officers

6.2.1 Must have knowledge and experience in the security industry, especially in guarding services.

6.2.2 Have a good communication skill (speak, read, and write).

6.2.3 Security officers should possess the following qualifications:

- Minimum of Grade 10
- PSIRA Grade C for officers and Grade B for supervisors.

## 7. PERFORMANCE MANAGEMENT

The performance of service providers will be monitored by the Security Service Project Manager or his/her delegate in the following manner.

7.1 Holding monthly meetings inclusive of any ad hoc meeting with the service provider
7.2 Day-to-day monitoring of the services providers security guards
7.3 Submitting monthly and weekly performance reports
7.4 Submit Quarterly risk assessment reports

## 8. BID SUBMISSION REQUIREMENTS

The bidder has to submit a bid response documentation pack, and it must be delivered at the correct physical or postal address and within the stipulated date and time as specified in the "Invitation to Bid" cover page, and the bidders are expected to submit the following: copies in two separate batches (1) Technical (2) Price proposal

- One original technical and price proposal.
- CD/USB containing a true copy of the technical proposal

## 9. PRICE PROPOSAL/COSTING TEMPLATE

| Description | Rate Year 1 | Rate Year 2 | Rate Year 3 | Quantity | Total |
|---|---|---|---|---|---|
| Grade C Security Officers | | | | 29 | |
| Grade B Supervisors | | | | 2 | |
| Base radio | | | | 1 | |
| Handheld radios | | | | 13 | |

| | | | | | |
|---|---|---|---|---|---|
| Rechargeable torches | | | | 10 | |
| Handheld metal detectors | | | | 08 | |
| Batons | | | | 29 | |
| Pocket books | | | | 29 | |
| Handcuffs | | | | 08 | |
| Whistle for each security officer | | | | 29 | |
| Fully installed patrol point systems on both buildings | | | | 2 | |
| Occurrence books | | | | 29 | |
| Cell phone including airtime | | | | 2 | |
| Security Uniform | | | | 31 | |
| Any Disbursement costs | | | | | |
| **TOTAL COST FOR 36 MONTHS** | | | | | |

Rates must be as per recent PSIRA rates, as issued by PSIRA

Rates must be inclusive of VAT.

Disbursement costs per recent PSIRA rates.

Priced must be fixed for the duration of the contract

The Service Provider must make provision for any cost increases that are inclusive of PSIRA Rate increases, replacement of equipment

Total costs of the project to be included in the SBD 3.3

## 10. BID EVALUATION PROCESS

a) The following method of evaluation will be used:
b) An evaluation panel will be established by the department, made up of members of the Evaluation Committee.
c) Bids will be evaluated strictly according to the bid evaluation criteria set out below.
d) Bid proposals will be evaluated in accordance with the 80/20-preference point system, as contemplated in the Preferential Procurement Policy Framework Act (Act 5 of 2000) and Preferential Procurement Regulations,2022.
e) Evaluation will be conducted in four phases:

## 11. BID EVALUATION STAGES

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

| Phases | Bid Evaluation criteria description | Applicable for this bid |
|---|---|---|
| Phase 1 | Administrative Pre-qualification requirements | **YES** |
| Phase 2 | Technical Mandatory Requirements | **YES** |
| Phase 3 | Evaluation on functionality | **YES** |
| Phase 4 | Evaluation on Price and Specific Goals | **YES** |

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

## PHASE 1: ADMINISTRATIVE PRE-QUALIFICATION REQUIREMENTS

The bidder **must comply** with ALL of the bid pre-qualification requirements in order for the bid to be accepted for evaluation.

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

(a) Reject the bid and not evaluate it, or

(b) Accept the bid for evaluation, on condition that the Bidder must submit within 7 (seven) days any supplementary information to achieve full compliance, provided that the supplementary information is administrative and not substantive in nature.

(c) All bids will be measured against the administrative pre-qualification requirements. Only bids that comply with the criteria mentioned below will be considered for further evaluation.

(d) The Service providers must be registered with the Central Supplier Database (please attach recent (CSD) report /proof with the company's unique number and M number).

(e) Provide Tax Compliance status- Pin issued by SARS.

(f) Completed and Signed Standard Bidding Documents (SBD forms)

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

## PHASE 2: TECHNICAL MANDATORY REQUIREMENTS

a) Proof of Supervisors registration with PSIRA Security (attach a copy of registration)
b) Proof of registration Security Service Provider registration with PSIRA (attach a copy of registration)
c) Proof of Registration of Compensation for Occupational Injuries and Diseases Act (COIDA) (attach Letter of good standing)

d) Proof of Public Liability Insurance with a reputable service provider/Insurance company (attach a copy of public liability Insurance)

**N.B All Service providers who do not qualify on mandatory requirements will not be considered for the next phase of evaluation on Functionality.**

## PHASE 3: EVALUATION ON FUNCTIONALITY

a. An evaluation panel will be established by the department, made up of members of the Bid Evaluation Committee. Bids will be evaluated strictly according to the bid evaluation criteria set out below.

b. A minimum threshold of **70%** for the technical elements must be scored; otherwise, the bid will be regarded as non-responsive and be disqualified. Bids that do not meet or better the technical threshold score of 70 % will not be evaluated further.

c. Each Service provider's technical proposal will be evaluated as per the criteria below in respect to evaluation matrix, prospective service bidders will be rated according to the scoring guide. In order to ensure meaningful participation and effective comparison, bidders are requested to furnish detailed information in substantiation of compliance to the evaluation criteria

**Technical scorecard:**

| | Criteria | Sub- criteria | Scoring Guide | Weight |
|---|---|---|---|---|
| 1 | 12 years of experience in providing security services. | 12 years of experience in providing security services. | • 12 & above years =15<br>• 8-11 years =10<br>• 5-7 years =05<br>• 4 or less years =0<br>NB: Traceable contact details and logo of the department/company on reference letters must be provided. | 15 |
| 2 | 5 Reference letters | Reference letters with traceable contact | • 5 and more reference letters =15 | 15 |

| | | | | |
|---|---|---|---|---|
| | demonstrating the experience in the private or public institutions. | details and logo of the department/company on reference letters. | • 4 reference letters =10<br>• 3 reference letters demonstrating =05<br>• 2 or less reference letters = 0 | |
| 3 | The Project Leader is recommended a minimum of 12 years of project management work experience in security service. | A CV must be provided indicating the previous roles and responsibilities which the potential project leader has occupied. Traceable contact details must be provided. | • 12 & above years =20<br>• 8-11 years =10<br>• 5-7 years =05<br>• 2-4 years =01<br>• Less than 2 years =0<br><br>NB: A CV must be provided indicating the previous roles and responsibilities which the potential project lead has occupied. Traceable contact details must be provided. | 20 |
| 4 | Supervisor with a recommended minimum of grade 10 qualification, Grade B PSIRA, and 5 years' experience in security service. | A CV must be provided indicating the previous roles and responsibilities and traceable contact details | • 5 & more year's experience =20<br>• 4 years =05<br>• Less than 4 years =0<br><br>NB: A CV must be provided indicating the previous roles and responsibilities that the supervisor has occupied. Traceable contact details must be provided. | 20 |
| 5 | Service provider's workplan that demonstrates | Project implementation work plan demonstrating understanding of the | **Excellent** project plan(workplan)that demonstrates understanding of the scope of work, including a detailed | 30 |

| | | | | |
|---|---|---|---|---|
| | an understanding of the project and deliverables to perform the project | scope of work detailing methodology to be followed. Contingency Plan Health and Safety | deployment plan, contingency plan, and Health and safety plan =30 **Good** project plan(workplan)that demonstrates understanding of the scope of work, including a detailed deployment plan, contingency plan, and Health and safety plan =15 **Poor** project plan(workplan)that demonstrates understanding of the scope of work, including a detailed deployment plan, contingency plan, and Health and safety plan = 0 | |
| | **Total technical score** | | | **100** |
| | **Minimum threshold for technical proposal** | | | **70** |

**NB:**

- **All Service providers with a score less than 70 out of 100 on functionality will not be considered for the pricing evaluation.**
- **If the project lead/engagement manager leaves the employ of the service provider (for whatever reason) they must be replaced by a project lead/engagement satisfying the respective listed skills.**

**PHASE 4: EVALUATION ON PRICE AND SPECIFIC GOALS**

a) Bid proposals will be evaluated in accordance with the 80/20-preference point system, as contemplated in the Preferential Procurement Policy Framework Act (Act 5 of 2000) and Preferential Procurement Regulations, 2022.

b) **80 / 20 PREFERENCE POINT SYSTEM**

| | **POINTS (80/20)** |
|---|---|
| **PRICE** | 80 |
| **SPECIFIC GOALS** | 20 |
| **Total points for Price and SPECIFIC GOALS** | **100** |

A maximum of Twenty (20) points may be allocated and awarded to a tender in line with the selected specific goals **(Women, Youth, Disability)**. In cases where there are some specific goals that must be selected, such goals must be clearly specified in the RFQ/RFP including the required list of returnable documents to enable the NDoHS to allocate points.

The points must be allocated and awarded as follows:

| **The specific goals allocated points for procurement** | **Number of points allocated (80/20 system)** | | **Proof to claim points for specific goals with the tender** |
|---|---|---|---|
| Promotion of Women owned entities | 10 | 51% or more owned by Women | a) a certified copy of the founding documentation of the company with which the ownership is listed<br>b) Certified copy of identity document such as SA ID book.<br>c) latest Central Supplier Database (CSD) report with women as owners/shareholders/directors of the company. |
| Promotion of Youth owned entities | 8 | 51% owned or more by Youth | a) a certified copy of the founding documentation of the company with which the ownership is listed.<br>b) Certified copy of identity document such as SA ID book, valid passport, citizenship, permit and so forth certified declaration.<br>c) latest Central Supplier Database (CSD) report with Youth as |

| | | | |
|---|---|---|---|
| | | | owners/shareholders/directors of the company. |
| Promotion of entities owned by disabled people | 2 | 51% or more owned by people living with disabilities | a) a certified copy of the founding documentation of the company with which the ownership is listed<br>b) A signed letter from a duly authorised medical practitioner.<br>c) latest Central Supplier Database (CSD) report with women as owners/shareholders/directors of the company |

:

a) The points scored for the specific goals must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

b) The following formula must be used to calculate the points out of 80 for price in respect of tender with a rand value not exceeding R 50 million (*inclusive of all applicable taxes*). The lowest acceptable tender must score 80 points for price, and other tenders which are high in price must score fewer points, on *pro rata* basis.

$$Ps = 80\left(1 - \frac{Pt - Pmin}{Pmin}\right)$$

Where -

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration; and

Pmin = Price of the lowest acceptable tender

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

a) The NDoHS will enter into a single contract with a single company for the delivery of the work set out in these terms of reference. It will be expected that the contracted company have the necessary expertise secured via subcontract, or under a joint venture arrangement.

b) The shortlisted companies might be required to conduct a presentation to the department at no cost to the NDoHS.

c) The Service Provider must be registered with UIF(Unemployment Insurance Fund) and be in good standing.

d) Valid Tax Compliance status- Pin issued by SARS must be submitted by all South African companies submitting bids as part of a consortium or joint venture.

e) Foreign companies providing proposals must become familiar with local conditions and laws and take them into account in preparing their proposals.

f) Bids must be submitted in South African Rands, at fixed rates.

g) The cost of preparing bids and of negotiating the contract will not be reimbursed.

h) The NDoHS is not bound to accept any of the bids submitted.

i) The NDoHS reserves the right to withdraw or amend these terms of reference by notice in writing to all parties who have received the terms of reference.

j) The NDoHS reserves the right to call interviews with short-listed bidders before final selection.

k) The NDoHS reserves the right to negotiate price with the preferred bidder.

l) The NDoHS reserves the right to return late bid submissions unopened.

m) The NDoHS reserves the right not to evaluate bids that are not submitted in the format specified in these terms of reference. Failure to submit the bids in the specified format may invalidate your bid.

n) The service provider will be required to sign a Nondisclosure agreement regarding the protection of NDoHS Personal information that is in the department.

o) A company may not contact the NDoHS or any member of the bid committees, on any matter pertaining to their bid from the time when bids are submitted to the time the consultant contract is awarded. Any effort by a bidder to influence bid evaluation, bid comparisons or bid award decisions in any matter, may result in rejection of the bid concerned.

p) The deadline for submission of bids is 11h00 on **21 November 2024 at 11:00**

q) The required service must commence one week after the official order has been placed and contract signed.

**r) No incomplete tenders, late tenders and tenders received telegraphically or per facsimile shall be accepted.**

s) The personnel of the civil company shall adhere to security regulations of the NDoHS. This entails issues like locking all valuables and computer equipment, remove of any computer equipment from the Department's premises.

t) A two-envelope system must be used, with one envelope containing only the price proposal and the other envelope containing the technical proposal, Tax Compliance status- Pin, and all other tender documents.

u) In addition to the requirements listed above, the service provider will be processing personal information on behalf of the DHS, as a result the service provider needs to demonstrate that it complies with Protection of Personal Information Act, 4 of 2013 ("POPIA").

v) The service provider must complete the Operator Checklist and provide all necessary information, which will then be assessed the DHS. The appointment of the service provider is conditional upon demonstrating compliance with POPIA.

Bids must be submitted by hand to:

**THE NATIONAL DEPARTMENT OF HUMAN SETTLEMENTS, DR. RUTH MOMPATI BUILDING, 260 JUSTICE MOHAMED STREET, SUNNYSIDE, PRETORIA, 0002**

**w) <u>Bids must be clearly marked:</u>**

I. Bid Number: **BID VA49/03 – 2024/24**
II. Service provider
III. National Department of Human Settlements; Directorate: Supply Chain Management
IV. Attention: Demand and Acquisitions Management

human settlements

Department:
Human Settlements
REPUBLIC OF SOUTH AFRICA

# OPERATOR COMPLIANCE CHECKLIST

| | | | |
|---|---|---|---|
| **Company Name:** | | | |
| **Registration Number:** | | | |
| **Nature of Services:** | | | |

| No | Question | Answer | Additional Information |
|---|---|---|---|
| 1 | Have you registered your Information Officer and, where relevant, your Deputy Information Officer with the Regulator? | | If yes, please specify the Information Officer and Deputy Information Officer: |
| 2 | In the event that you have delegated the role of Information Officer or the Deputy information Officer, is there a formal authorisation or delegation in place? | | |
| 3 | Have you implemented any formal data privacy and protection policies or procedures within your organisation? | | If yes, please specify the policies and procedures: |
| 4 | Have you conducted a POPIA Gap Assessment/Analysis/Personal Information Impact Assesment? | | If in progress, please advise when it is expected to be completed by: |
| 5 | Do you have any Operators that provide key parts of the service to us? | | If yes, please specify the company and the service: |
| 6 | Have you reviewed and compiled a list of all of your Operators? | | |
| 7 | Have you entered into an Operator agreement with all your Operators? | | |
| 8 | Have you implemented a ROPA (Record of Processing Activities)? | | |
| 9 | Have you considered whether you are required to implement a PAIA Manual and if so, has it been implemented? | | |
| 10 | Is there a process in place to identify all reasonably foreseeable internal and external risks to Personal Information? | | |
| 11 | Is there a process in place to establish and maintain appropriate security safeguards against the risks identified? | | If yes, please specify the security safeguards in place: |
| 12 | Is there a process in place to regularly verify that the safeguards are effectively implemented, for example, have you employed someone to conduct a security | | |
| 13 | Is there a process in place to ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards? | | |
| 14 | Do you have physical access control measures to secure access to the premises where Personal Information is stored? | | |
| 15 | Do you restrict access to Personal Information to trained and authorised staff members? | | |

Yes

No

Not applicable

In progress

| | | | |
|---|---|---|---|
| 16 | Have you implemented a procedure to be followed in the event of a security compromise / data breach? | | |
| 17 | Have you ensured that you have appropriate privacy notices in place and that they are displayed? | | |
| 18 | Have you implemented a Data Subject Rights Procedure? | | |
| 19 | If you are established outside the Republic of South Africa, have you appointed a representative in South Africa for the purposes of POPIA implementation? | | |
| 20 | Have you developed appropriate procedures to ensure that Personal Information is accurate and up to date? | | |
| 21 | Have you reviewed your direct marketing practices and amended it in line with POPIA? | | |
| 22 | Have you trained your employees on POPIA and all policies and procedures that have been implemented as part of your compliance framework? | | |
| 23 | Do you have a data retention policy or procedure in place that advises you how and when to retain and destroy data? | | |
| 24 | Are there any transfers of Personal Information outside the Republic of South Africa? | | If yes, please specify the countries and list the safeguards taken to protect data, e.g. Data |
| 25 | Are cloud services used for the services you provide? | | If yes, please specify where the servers for the Personal Information are located: |

# PART A
# INVITATION TO BID

**NB: ORIGINAL TENDER DOCUMENTS FOR FUNCTIONALITY AND FINACIAL OFFER MUST BE SUBMITTED IN SEPARATE SEALED ENVELOPES MARKED BID PROPOSAL ENVELOPE 1: FUNCTIONALITY AND ENVELOPE 2: FINANCIAL OFFER**

| | | | | | |
|---|---|---|---|---|---|
| **YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE** *(NAME OF DEPARTMENT/ PUBLIC ENTITY)* | | | | | |
| BID NUMBER: | **VA49/03 – 2024/25** | **CLOSING DATE: 21/11/ 2024** | | **CLOSING TIME:** | **11:00** |
| DESCRIPTION | **SECURITY GUADING 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** | | | | | |
| **TELEPHONE NUMBER** | | | | | |
| **FACSIMILE NUMBER** | | | | | |
| **E-MAIL ADDRESS** | tenderenquiries@dhs.gov.za | **E-MAIL ADDRESS** | tenderenquiries@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]<br>☐ Yes ☐ No | | B-BBEE STATUS LEVEL SWORN AFFIDAVIT | [TICK APPLICABLE BOX]<br>☐ 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<br>[IF YES ENCLOSE PROOF] | | ARE YOU A FOREIGN BASED SUPPLIER FOR **THE GOODS /SERVICES /WORKS OFFERED?** | ☐Yes ☐No<br>[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)

**NB: ORIGINAL TENDER DOCUMENTS FOR FUNCTIONALITY AND FINACIAL OFFER MUST BE SUBMITTED IN SEPARATE SEALED ENVELOPES MARKED BID PROPOSAL ENVELOPE 1: FUNCTIONALITY AND ENVELOPE 2: FINANCIAL OFFER**

NAME OF BIDDER: ……………………………………………………………………………………BID NO.: **VA49/03 – 2024/25**
CLOSING TIME **11:00** CLOSING DATE: **21/11/2024**

OFFER TO BE VALID FOR... **120**... DAYS FROM THE CLOSING DATE OF BID.

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

**BID VA49/03 - 2024/25: THE APPOINTMENT OF A SERVICE PROVIDER FOR SECURITY GUARDING SERVICES FOR A PERIOD OF THIRTY-SIX 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. **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

| 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……………… |
| ---------------------------------------- | ………………. | ……………… | R……………… |
| ---------------------------------------- | ………………. | ……………… | R……………… |

Name of Bidder: ..................................................................................................................................

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, 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 and technicalities may be directed to:

Tendersenquiries@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

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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 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**

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## 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** | **80** |
| **SPECIFIC GOALS** | **20** |
| **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:

| 80/20 | or | 90/10 |
|---|---|---|
| $Ps = 80\left(1 - \frac{Pt-P\,min}{P\,min}\right)$ | or | $Ps = 90\left(1 - \frac{Pt-P\,min}{P\,min}\right)$ |

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:

**80/20** **or** **90/10**

$$Ps = 80\left(1 + \frac{Pt - P\,max}{P\,max}\right) \text{ or } \qquad Ps = 90\left(1 + \frac{Pt - P\,max}{Pmax}\right)$$

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) |
|---|---|---|---|---|
| **Women** | | **10** | | |
| **Youth** | | **08** | | |
| **People with Disabilities** | | **02** | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

**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:** ..........................................................

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

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

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

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

## 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.