correctional services

Department:
Correctional Services
REPUBLIC OF SOUTH AFRICA

Private Bag X136, Pretoria, 0001 or 124 Church Street, Poyntons Building West Block, Pretoria, 0001
Tel (012) 307 2121, Fax (012) 323 5621, E-mail: Penoria.Ndala@dcs.gov.za

Ref : 6/1/3/4
Enq : PV Ndala

The Manager
....
....
....
....

BID HO 2/2024: APPOINTMENT OF A SERVICE PROVIDER FOR PROVISION OF VETTING PERSONNEL SUITABILITY SCREENING SERVICES AT THE DEPARTMENT OF CORRECTIONAL SERVICES FOR A PERIOD OF THREE YEARS.

The Department of Correctional Services requires the item(s)/service described per attached bid invitation.

you are requested to complete the documents and to submit it to the address indicated in the SBD 1.

Non compulsory virtual briefing session will be held on 19 June 2024 at 10:00

Microsoft Teams meeting ID:

Meeting ID: 352 449 600 810
Passcode: xjet9S

Please note the link will be made available on eTender and DCS portal.

Bidders must take note of the following:

- The closing date of the bid will be at **11h00 am** on **19 JULY 2024** and will be valid for a period of **hundred and twenty (120) days** after the closing date.
- Bids must be submitted in two separated sealed envelopes. The name and address of the bidder, the bid number and closing date indicated on the two envelopes. The envelope must not contain documents relating to any other bid.
- It is the responsibility of bidders to ensure that bids reach the address indicated on the SBD 1 before the closing date and time. **No late bids will be accepted.**

BID HO 2/2024: APPOINTMENT OF A SERVICE PROVIDER FOR PROVISION OF VETTING PERSONNEL SUITABILITY SCREENING SERVICES IN THE DEPARTMENT OF CORRECTIONAL SERVICES FOR A PERIOD OF THREE YEARS.

- Bidders need to acquaint themselves with the contents of the attached General and Special conditions of Contract.
- It is the responsibility of bidder to ensure that they are registered on the National Treasury Central Supplier Database (CSD).
- It will be expected of the successful bidder to sign a formal contract at this office after being notified of the acceptance of their bid.

....
For National Commissioner: Correctional Services
Director: Procurement
D.B. Molaba

Date: 2024/06/13

PART A
INVITATION TO BID

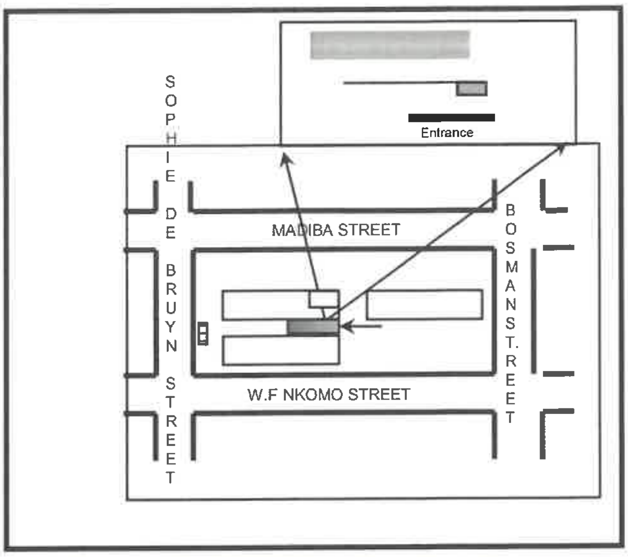
YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (*NAME OF DEPARTMENT/ PUBLIC ENTITY*)					
BID NUMBER:	**HO 2/2024**	CLOSING DATE:	**19 JULY 2024**	CLOSING TIME:	11:00 am
DESCRIPTION	**APPOINTMENT OF A SERVICE PROVIDER FOR PROVISION OF VETTING PERSONNEL SUITABILITY SCREENING SERVICES AT THE DEPARTMENT OF CORRECTIONAL SERVICES FOR A PERIOD OF THREE YEARS.**				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT *(STREET ADDRESS)*					

BID RESPONSE DOCUMENTS MAY BE POSTED TO:

THE NATIONAL COMMISSIONER
DEPARTMENT OF CORRECTIONAL SERVICES
PRIVATE BAG X136
PRETORIA
0001

BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT:

POYNTONS-BUILDING
WEST BLOCK
124 W.F. NKOMO STREET (C/O SOPHIE DE BRUYN AND W.F. NKOMO STREET)
PRETORIA
0002



BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO		**TECHNICAL ENQUIRIES MAY BE DIRECTED TO:**	
CONTACT PERSON	Vuyiswa Ndala	CONTACT PERSON	
TELEPHONE NUMBER	012 307 2410/ 305 8041	TELEPHONE NUMBER	
FACSIMILE NUMBER	012 323 5621	FACSIMILE NUMBER	
E-MAIL ADDRESS	Penoria.Ndala@dcs.gov.za JacobJB.Sibanyoni@dcs.gov.za	E-MAIL ADDRESS	

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, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.

1.4. **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (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: ……………………………………………

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

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

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

2. Bidder's declaration

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

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

Full Name	Identity Number	Name of State institution

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

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

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

2.2.1 If so, furnish particulars:
……………………………………………………………………………………
……………………………………………………………………………………

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

2.3.1 If so, furnish particulars:
………………………………………………………………………………
………………………………………………………………………………

3 DECLARATION

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

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

3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring

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

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

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

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.
I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

…………………………………	…………………………………………………
Signature	Date
…………………………………	…………………………………………………
Position	Name of bidder

correctional services

Department:
Correctional Services
REPUBLIC OF SOUTH AFRICA

SBD 3.3

PRICING SCHEDULE

(Professional Services – Firm prices only)
To be included in envelope two (2)

NAME OF BIDDER: ……………………………………………………………………………………………BID NO.: HO 2/2024

CLOSING TIME 11:00 AM ON 19 JULY 2024

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

ITEM 1: **APPOINTMENT OF A SERVICE PROVIDER FOR THE PROVISION OF VETTING PERSONNEL SUITABILITY SCREENING SERVICES AT THE DEPARTMENT OF CORRECTIONAL SERVICES FOR A PERIOD OF THREE (3) YEARS.**

COST PER PROJECT	Price for 1st year	Price for 2nd year	Price for 3rd year
a) Criminal Record checks	R………………………. check per transaction	R………………………. check per transaction	R………………………. check per transaction
b) Citizenship verification / Identity verification	R………………………. check per transaction	R………………………. check per transaction	R………………………. check per transaction
c) Financial / assets record checks	R………………………. check per transaction	R………………………. check per transaction	R………………………. check per transaction
d) Qualification / study verification	R………………………. check per transaction	R………………………. check per transaction	R………………………. check per transaction
e) Verification of registration with Professional Association's membership	R………………………. check per transaction	R………………………. check per transaction	R………………………. check per transaction
f) Company probity checks (Service Provider's verification)	R………………………. check per transaction	R………………………. check per transaction	R………………………. check per transaction
g) Drivers' License & Public Drivers Permit (PDP)	R………………………. check per transaction	R………………………. check per transaction	R………………………. check per transaction
	R……………………….	R……………………….	R……………………….
Grand Total from 1st year to 3rd year	R……………………….		

****Discount offered for bulk search must be highlighted on the pricing schedule.***
****Failure to fully complete the pricing schedule will result in disqualification.***

"ALL APPLICABLE TAXES INCLUDED" includes value-added tax, pay as you earn, income tax, unemployment insurance contributions and skills development levies.

NOTE: According to the VAT Act, 1991 (Act No. 89 of 1991), all contract prices are inclusive of 15% Value-Added Tax (VAT), except in the case of a person that is not required to register for Value-Added Tax.

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 PREFERENCE POINT SYSTEM

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**

$$Ps = 80\left(1 - \frac{Pt - P\,min}{P\,min}\right) \quad \text{or} \quad Ps = 90\left(1 - \frac{Pt - P\,min}{P\,min}\right)$$

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	3	7		
Youth	3	6		
Black	2	5		
People living with disabilities	2	2		
	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: ………………………………………………………………

………………………………………………………………

………………………………………………………………

………………………………………………………………

correctional services
Department:
Correctional Services
REPUBLIC OF SOUTH AFRICA

BD 4.1

SPECIAL CONDITIONS OF CONTRACT

BID HO 2/2024: APPOINTMENT OF A SERVICE PROVIDER FOR PROVISION OF VETTING PERSONNEL SUITABILITY SCREENING SERVICES AT THE DEPARTMENT OF CORRECTIONAL SERVICES FOR A PERIOD OF THREE YEARS.

Table of Contents

SECTION A: BID REQUIREMENTS

1. LEGISLATIVE AND REGULATORY FRAMEWORK

1.1 This bid and all contracts emanating there from will be subject to the General Conditions of Contract issued in accordance with Treasury Regulation 16A published in terms of the Public Finance Management Act, 1999 (Act 1 of 1999).

1.2 The Special Conditions of Contract are supplementary to that of the General Conditions of Contract. Where, however, the Special Conditions of Contract are in conflict with the General Conditions of Contract, the Special Conditions of Contract prevail.

1.3 The services shall be regulated by the following legislation, policies and guidelines:

1.3.1. The Constitution of the Republic of South Africa, 1996, (Act 108 of 1996) Sections 27(1)(b), 27(2) and 35(2)(e).

1.3.2. Public Finance Management Act

1.3.3. Preferential Procurement Regulations Framework Act.

1.3.4. Treasury Regulations

1.3.5. All other relevant regulations.

a) All other relevant National Treasury Instructions and circulars.

1.4 These conditions form part of the bid and bidders need to familiarize themselves with the content thereof.

2. CONTRACT PERIOD

2.1 The contract period shall be for three (3) years.

3. NON-COMPULSORY BRIEFING SESSION

3.1 A non-compulsory online briefing session will be communicated on the advert

3.2 The briefing session is not compulsory but will provide bidders with an opportunity to seek clarity on certain aspects of the procurement processes and requirements of this bid and therefore bidders encouraged to attend the briefing session.

3.3 DCS reserves the right to answer questions at the briefing session and/or to respond formally after the briefing session.

3.4 All bid enquiries must be communicated via email (refer to paragraph 13).

4. REGISTRATION ON CENTRAL SUPPLIERS DATABASE

4.1 Bidders need to register on the National Treasury Central Supplier Database in order to do business with the Department. The Department of Correctional Services will not award any bid or price quotations to any supplier who is not registered on the Central Suppliers Database. Bidders must log on www.csd.gov.za for self-registration.

5. CERTIFICATION OF DOCUMENTS BY A COMMISSIONER OF OATH

5.1 Bidders must ensure that all certified copies comply with the regulation governing the administering of an oath or affirmation. The Commissioner of Oath must append a signature, date and also print out name. **Copies that do not comply with this regulation will be regarded as invalid.**

5.2 The date of certification of the original on all copies submitted should not be older than six (6) months at the closing date and time of the bid.

5.3 Department might require original documents of the successful bidder before final award

6. STANDARD BIDDING DOCUMENTS (SBD)

6.1 Bid documents should not be retyped or redrafted.

6.2 The following bid documents must be completed in ink, signed and submitted in an original format:

Document	Description
SBD 1	Invitation to Bid
SBD 3	Pricing Schedule
SBD 4	Bidders Disclosure
SBD 6.1	Claim Form in Terms of Preferential Procurement Regulations 2022

6.3 Bidders shall check the numbers of the pages and satisfy themselves that none are missing or duplicated in line with the index provided. No liability shall be accepted with regard to claims arising from the fact that pages are missing or duplicated.

7. BIDDERS DISCLOSURE (SBD 4)

7.1 It is important that bidders acquaint themselves with the content of the bidders disclosure (SBD 4)

7.2 A bidder or his/her authorised representative is required to declare his/her position in relation to the evaluating/adjudicating authority and/or take an oath declaring his/her interest, where –

a) The bidder is employed by the Department; and/or

b) 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 or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

7.3 The bidders disclosure (SBD 4) must be completed in full.

7.4 Declarations of any nature will not necessarily prejudice any bidder, however should a bidder knowingly submit false declarations, this Department will act against such bidder (company) and/or its Directors in terms of paragraph 23 of the General Conditions of Contract.

8. PARTICIPATION OF GOVERNMENT OFFICIALS IN THE BIDDING PROCESS

8.1 In accordance with Sections 118 and 121 of the Correctional Services Act, 1998 (Act 111 of 1998), no member of the Department of Correctional Services may participate in the bidding process of the Department.

8.2 The Public Administration Act, 2014 (Act no. 11 of 2014), chapter 3, section 8(2) (a) specifies that an employee of the Department may not conduct business with the Department.

8.3 Bidders having a kinship with persons employed by the Department, including a blood relationship, must declare their interest on the SBD 4 (Bidders disclosure).

9. SUBMISSION OF BIDS

9.1 The pricing and bid document should be in two (2) separate sealed envelopes. Stage bidding or pricing should be separate, first envelope should comprise of proposal and second envelope comprise of pricing only. Envelope or suitable cover must have the name and address of the bidder (company), the bid number and the closing date and time must be clearly endorsed.

9.2 The Department reserves the right to award to more than one firm or in specific groupings as they may deem fit.

10.LATE BIDS

10.1 Bids received after the closing date and time, at the address indicated in the bid documents, will not be accepted for consideration and where practicable, will be returned unopened to the bidder.

11. TAX MATTERS

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

11.2 The Tax Compliance status requirements are also applicable to foreign bidders/ individuals who wish to submit price quotations.

11.3 When a Consortium/ joint Venture / Sub- contracts are involved, each party must be registered on the Central Suppliers Database and their tax compliance status will be verified through the Central Supplier Database.

12. FRONTING

12.1 The Department of Correctional Services supports the spirit of Broad Based Black Economic Empowerment and recognizes that real development can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in:

a) An honest, fair, equitable, transparent and legally compliant manner. Against this background the Department of Correctional Services condemn any form of fronting.

b) The Department of Correctional Services, is ensuring that bidders conduct themselves in an honest manner will as part of the bid evaluation processes, conduct or initiate the necessary enquiries, investigations to determine the accuracy of the representations made in the bid documents.

12.2 Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the Department of Trade and Industry, be established during such enquiry/ investigation, the onus will be on the bidder/ contractor to prove that fronting does not exist. Failure to do so within a period of 14 days from the date of notification may invalidate the bid/ contract and may also result in the restriction of the bidder/ contractor to conduct business with the public sector for a period not exceeding ten (10) years, in addition to any other remedies the Department may have against the bidder/ contractor concerned.

13. COMMUNICATION

13.1 All bid related and technical enquiries should be addressed to the following contacts: jacob.sibanyoni@dcs.gov.za and Penoria.Ndala@dcs.gov.za

14. NON-COMMITMENT

14.1 The Department reserves the right not to award, to award in part or in full.

14.2 The right is reserved not to accept any of the bids submitted.

14.3 The right is also reserved to withdraw or amend any of the bid conditions by notice in writing to all bidders prior to closing of the bid and post award.

14.4 In the event that an incorrect award has been made, the Department reserves the right to remedy the matter in any manner it may deem fit.

SECTION B: BID EVALUATION CRITERIA

15. EVALUATION CRITERIA

15.1 The bidder is expected to provide substantiation for all criteria below. Substantiation may be provided by means of additional Annexures; however; a specific reference MUST be made to the relevant Annexure; page and paragraph number as to where the information is located. Failure to provide specific reference to the location of the information may disadvantage the allocation of points. The evaluation process will be conducted in phases as follows:

Phase 1	**Phase 2**	**Phase 3**
Mandatory Requirements	**Technical/ Functional Evaluation**	**Price and Specific goals**
Compliance with mandatory requirements	Compliance with technical specifications	Recommendation and award

The scoring matrix will be used for Phase 2 Technical and functional evaluation criteria

The following formula will be used to convert the points scored against the weight:

$$Ps = \frac{so}{ms} \; x \; Ap$$

Ps	=	Points scored for functionality by bid under consideration
So	=	Total scored for functionality by bid under consideration
Ms	=	Maximum possible score

Ap = Points allocated

I. The value scored for each criterion will be multiplied by the specified weight for the relevant criterion to obtain the total score for each criterion.
II. The scores for each criterion will be added to obtain the total score.
III. This total score will be divided by the maximm possible score and multiplied by the points allocated.
IV. Bidders not meeting a minimum qualifying score required on functionality evaluation will disqualified.
V. Specific goals claimed will not be noted but not calculatedand price proposals will remain unopened.

Scoring Matrix

Very poor/ No evidence	Poor/ Inadequate	Fair/ Average	Good/ Satisfactory	Very good/ Fully meet and slightly requirements	Excellent/ Significantly exceed the requirements
0	**1**	**2**	**3**	**4**	**5**

15.1.1 Compliance to minimum requirements during phase 1 and phase 2, all bidders will be evaluated to ensure compliance to minimum document requirements and with the listed administration and mandatory bid requirements. Without limiting the generality of the CIPC 'S other critical requirements for this Bid, bidder(s) must submit the documents listed in the Table below. All documents must be completed and signed by the duly authorised representative of the prospective bidder(s).

15.1.2 The bidder(s) proposal may be disqualified for non-submission of any of the document.

15.1.3 Bid Document - All pages must be completed and signed (where signature is applicable) by the Bidder

15.1.4 Invitation to bid must be Completed and signed (SBD 1)

15.1.5 Pricing Schedules must be fully completed and signed (SBD 3.3)

15.1.6 Bidders disclosure must be fully completed and signed (SBD 4)

15.2 PHASE 1: MANDATORY REQUIREMENTS

15.2.1 Bidders must be registered on the Central Supplier Database (CSD) and provide its CSD number as per SBD1.

15.2.1.1 When a Consortium/ joint Venture / Sub- contracts are involved, each party must be registered on the Central Suppliers Database and their tax compliance status will be verified through the Central Supplier Database.

15.2.2 Bidders must submit proof of being registered with the National Credit Regulator in terms of the National Credit Act 34 of 2005 **(valid proof of registration must be provided e.g certificate/letter etc)**.

15.3 PHASE 2 (TECHNICAL/FUNCTIONALITY EVALUATION)

15.3.1 The criteria and weights as per table 14.4 will be applied during Phase 2 of the evaluation process.

15.3.2 The Bid Evaluation Committee evaluates the bid against the set criteria indicated in the special conditions. A form will be used which will reflect the name of the bidder, the different criteria, with space provided to record the points awarded and motivation for points awarded. The allocation of points will not be effected on a basis of consensus.

15.3.3 Only bidders who achieve the threshold score of 65% or more will be short-listed to proceed to Phase 3.

15.3.4 Bidders that score less than seventy (65%) in respect of functionality compliance will be regarded as non-responsive and will not be evaluated further.

15.4 TECHNICAL EVALUATION FUNCTIONALITY SCORING

No.	Evaluation Criteria	Scoring matrix						% Weight
		0	1	2	3	4	5	
1	**(1) EXPERIENCE** The service provider must have at least one year of experience in providing personnel suitability screening services. The bidder must submit written proof of their experience by means of submitting signed reference letter(s) from their previous clients. Reference letters must be dated and signed on a letterhead of the customer that issued it. **Scoring will be allocated as follows:** • 0 to 11 months experience - 1 • 1-2 years experience - 2 • 3 years experience - 3 • 4 years experience - 4 • 5/more years experience - 5							**50**
2	**(2) QUALITY OF PROPOSED METHODOLOGY** Bidder must clearly outline how the following will be achieved: **Scoring will be allocated as follows:** **3.1 Online access and assistance to the personnel suitability screening system** If component criteria is not met as outlined 0 If component criteria is met as outlined 5 **3.2 Criminal record checks, citizenship/ID verification, qualification checks, credit/financial checks** If component criteria is not met as outlined 0 If component criteria is met as outlined 5 **3.3 Submission of online and usage reports linked to the requested checks** If component criteria is not met as outlined 0 If component criteria is met as outlined 5 **3.4 Provision and maintenance of the database (access to previous reports requested)** If component criteria is not met as outlined 0 If component criteria is met as outlined 5 **3.5 Provision of user ID's to ensure Confidentiality of the Department's information. Username, Password, Fingerprint linked to ID number, Security questions to verify authenticity of the user** If component criteria is not met as outlined 0 If component criteria is met as outlined 5 ***NB:*** ***Total points awarded will be divided by 5 as per the scoring matrix.***							**50**
	TOTAL							**100%**

Note: Bidders must achieve a minimum score of 65% in Phase 2 of the technical criteria, in order to be considered for the next level of the evaluation process i.e. Price and Specific goals.

ENVELOPE 2 MARKED WITH THE NAME OF THE BIDDER AND TITLED

APPOINTMENT OF A SERVICE PROVIDER FOR PROVISION OF VETTING PERSONNEL SUITABILITY SCREENING SERVICES IN THE DEPARTMENT OF CORRECTIONAL SERVICES FOR A PERIOD OF THREE YEARS.

15.5 PHASE 3: PRICE AND SPECIFIC GOALS

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

a) Bid price (maximum 80 points)
b) Specific goals (maximum 20 points)
c) Bidders that achieved a minimum score of 65 points in last phase of Technical evaluation will progress to this level (phase 3) and will be evaluated in accordance with the preference point system. The following preference points system will be used for this tender:

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

Cases with a Rand value below R50 million (all applicable taxes included)

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

Where:

PS = Points scored for comparative price of bid or offer under consideration

Pt = Comparative price of bid or offer under consideration

Pmin= Comparative price of lowest acceptable bid or offer

15.5.3 Specific goals as per Department of Correctional Services policy will be awarded as follows :

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system)	Number of points allocated (80/20 system)
Women	3	7
Youth	3	6
Black	2	5
People living with disabilities	2	2

15.5.4 The following documentary proof must be submitted to claim for specific goals:

15.5.4.1 Women: Signed affidavit (signed off by SAPS) confirming gender, BBBEE certificate, Sworn Affidavit as per DTI prescribed template.

15.5.4.2 Disability: Medical certificate signed by the doctor.

15.5.4.3 Black: Signed affidavit (signed off by SAPS) confirming race, BBBEE certificate, Sworn Affidavit as per DTI prescribed template.

15.5.4.4 Youth: Certified Identity document, BBBEE certificate, Sworn Affidavit as per DTI prescribed template.

Note: For a bidder to qualify for preference points, ownership of 51% or more per procurement goal/historically disadvantaged individual must be obtained.

15.5.5 The date of certification should not be older than six (6) months as at close of bid.

15.5.5.1 The points scored by a bidder in respect of specific goals will be added to the points scored for price.

15.5.6 The points scored will be rounded off to the nearest 2 decimals.

16. BID PRICING SCHEDULE REQUIREMENTS

16.1 The bidder must submit the prescribed Pricing Schedule as well as the relevant enclosed Standard Bidding Documents.

16.2 SOUTH AFRICAN PRICING: The total price must be VAT inclusive and be quoted in South African Rand (ZAR).

16.3 TOTAL PRICE: All quoted prices are the total price for the entire scope of required services and deliverables to be provided by the bidder.

16.4 Bidders must indicate any discounts that the Department (DCS) stands to benefit in cases of bulk searches.

16.5 The cost of delivery, labour, S&T, overtime, etc. must be included in the bid price.

16.6 All additional costs must be clearly specified.

17. PRICE AND PRICE QUALIFICATION

17.1 Prices for this contract are **firm**.

17.2 Prices shall be quoted in South African currency.

17.3 The bid prices shall be given in the units shown, i.e price per transaction.

17.4 No guarantee can be provided on the number of sales throughout the contract period.

17.5 Prices must be inclusive of delivery cost and all taxes.

18. RECOMMENDATION AND AWARD

18.1 The Bid Evaluation Committee will recommend a preferred responsive bidder based on phase 1, phase 2 and phase 3 to the Bid Adjudication Committee for award and approval.

18.2 The Department reserves the right to award contracts to more than one contractor for the same item, furthermore the Department reserves the right to award more than one bidder/service provider for this bid.

SECTION C

19. SUPPLIER DUE DILIGENCE

19.1 The Department reserves the right to conduct due diligence prior to final award or at any time during the contract period and this may include pre-announced/ non-announced site visits.

20. VENDOR ASSESSMENT

20.1 The Department will have the right to confirm the ability of bidders to execute this contract successfully. This includes an investigation by the Department or its appointee of the following:

a) Bidder's operational plan on how to execute the supply of items bidding for.

b) Previous contracts executed and current contracts.

c) Delivery periods, quality and quantity of products.

21. COUNTER CONDITIONS

21.1 Bidders' attention is drawn to the fact that amendments to any of the Bid Conditions or setting of counter conditions by bidders will result in the invalidation of such bids.

22. PAYMENTS

22.1 Payments will only be effected by the Department in the following cases:The successful completion of a delivery/service in line with the specification/terms of reference.

a) The service provider will be paid on a monthly basis, depending on the number of transactions conducted.

b) Invoices should be delivered/posted or e-mailed to reach the institution that placed the order, timeously.

c) Invoices must be accompanied by an inspection certificate and/or proof of delivery.

d) Invoices will be paid by the Department within 30 days from the date of receipt.

22.2 The Department / Management Areas will not make a payment to a consultant or with a third party.

22.3 No third party is entitled to put an account of the relevant Management Areas on hold.

SECTION D: SUPPLIER PERFORMANCE AND CONTRACT MANAGEMENT

23. SUPPLIER PERFORMANCE AND CONTRACT MANAGEMENT

23.1 The Department and the contractor will enter into a Service Level Agreement.

23.2 Department of Correctional Services will conduct meetings with the end users and contractors to discuss contracting issues.

23.3 Contracted suppliers must notify the Department of Correctional Services in writing of any unforeseeable circumstances that may adversely affect supply against the contract. The notification must be done 21 days before the expected delivery date.

23.4 The Department of Correctional Services will monitor the performance of contracted suppliers for compliance to the terms of this contract as follows:

a) Compliance to delivery lead times;

b) Percentage of orders supplied in full first time;

c) Compliance with reporting requirements according to reporting schedule.

d) Attendance of compulsory monthly meetings.

23.5 Any change in the status in supply performance during the contract period must be reported within seven (7) days of receipt of such information to the Department of Correctional Services.

23.6 The contractor shall not abandon, transfer, assign or sublet a contract or part thereof without the prior written approval from the Department.

23.7 Contractor must inform the relevant Institution immediately when unforeseeable circumstances will adversely affect the execution of the contract. Full particulars of such circumstances as well as the period of delay must be furnished.

23.8 Contract performance management will be the responsibility of Management Area/ Self Accounting Store (end-user) and where supplier performance disputes cannot be resolved between the contractor and the relevant purchasing institution, The Directorate Contract Management must be informed for corrective action.

24. MERGERS, TAKE OVERS AND CHANGES IN SUPPLIER DETAILS

24.1 Where a contracted supplier plans to merge with or is going to be acquired by another entity, the contracted supplier must inform the Department of Correctional Services writing 30 days prior to such event of relevant details.

24.2 The Department reserves the right to agree to the transfer of contractual obligations to the new supplier under the prevailing conditions of contract or to cancel the contract.

24.3 A contracted supplier must inform the Department of Correctional Services within 14 days of any changes of address, name, contact or banking details.

25. BREACH OF CONTRACT

25.1 The Department of Correctional Services reserves the right to terminate the contract(s) for not honouring contract(s) obligations including submission of information.

26. SETTLEMENT OF DISPUTES

26.1 Should any dispute arise from the contract management paragraph 23 of the General Conditions of Contract shall apply.

27. TERMINATION

27.1 The Department shall be entitled to terminate this Agreement if one or more of the following occur: -

a) The service provider is provisionally or finally liquidated, making it impossible for the service provider to perform its functions in terms of this Contract;
b) The service provider enters into settlement arrangements with their creditors;
c) The service provider commits an act of insolvency;
d) In the event that the service provider is a member of an unincorporated joint venture or consortium and the membership of such joint venture or Consortium changes.

27.2 The Department reserves its right to terminate the Contract in the event that there is a change in ownership of the service provider that has the effect that over 50% ownership of the service provider belongs to the new owner without prior written approval of the Department.

27.3 Either Party may terminate this Contract for breach in the event that the other party fails to comply with any of its obligations in terms of this Contract, and having failed to remedy such breach within 14 (fourteen) calendar day's written notice to remedy such non-compliance.

27.4 Notwithstanding the provisions above, either Party may terminate this Contract by giving the other Party 30 (thirty) days' written notice to that effect.

TERMS OF REFERENCE
APPOINTMENT OF A SERVICE PROVIDER FOR PROVISION OF VETTING PERSONNEL SUITABILITY SCREENING SERVICES

1. INTRODUCTION

The Department of Correctional Services intends to appoint a credible service provider who will enable the vetting unit of the Department to conduct personnel suitability screening checks for service providers who intends doing business with the Department and prospective employees of the Department for a period of three years.

2. BACKGROUND

The Department of Correctional Services (DCS) needs to ensure that personnel and service providers are screened and vetted to ensure their suitability for employment and contract for services.

The Public Service Act, 1994 as amended and the National Vetting Strategy 1996, stipulate that verification of candidates' information must be conducted prior to appointment or filling of posts and contractual obligations to the Department. This process also applies to Internship, DCS's Learnership as well as the companies that seek to render a service to the Department. It is estimated that DCS will conduct PSC screening of approximately 9000 prospective candidates including existing employees per annum. The Department will conduct company screening on recommended bidders as and when the need arises.

These services are pertinent in ensuring that DCS recruitment processes are conducted in accordance to prescribed processes and are also compliant to national security and vetting prescripts.

3. POLICY FRAMEWORK

3.1. The Constitution Act 108 of 1996- Section 36

Vetting is conducted in accordance with Chapter 2 of the Constitution (Bill of Rights).

Limitation to individual rights to privacy is constitutional in terms of section 36, if it is reasonable, justifiable & considering the following:

- the importance of the purpose of the limitation;

- the nature and extent of the limitation;
- the relationship between the limitation and its purpose; and
- less restrictive means to achieve the purpose

3.2. National Strategic Intelligence Act 39 of 1994 As Amended in Act 67 of 2002 2(a) i &ii

Chapter 2 a. (i) states that "The relevant members of the National Intelligence Structures may conduct a security screening investigation to determine the security competence of a person if such a person-

(a) is employed by or is an applicant to an organ of state: or is rendering a service or has given notice of intention to render a service to an organ of state. Which service may-

(i) gives him or her access to classified information and intelligence in the possession of the organ of state: or

(ii) give him or her access to areas designated national key points in terms of the National Key Points Act, 1980 (Act No. 102 of 1980)

3.3. Intelligence Services Act 65 of 2002

Chapter 26 3(C) which reads "Security screening procedure may only be used to determine the persons or the member's integrity, reliability, and loyalty to the State in safeguarding the interest of RSA and its constitution. This Act must be read in conjunction with the NSI Act 39 of 1994 As amended in Act 67 of 2002 2(a).

3.4. Cabinet Memo of 2006- National Vetting Strategy 2006-2011

Public Service employees are continuously at risk of being targeted for acts of espionage, sabotage, subversion, corruption and a range of other criminal and unconstitutional activities. It is consequently imperative that adequate processes concerning the screening and security vetting of candidates and employees be put in place in line with the approved Vetting Strategy.

3.5. MISS- Chapter 5

Chapter 5. Par 1.5 states that "Political appointees (Director Generals, Ambassadors, etc.) will not be vetted, unless the President so requests or the relevant contract so provides. From the lowest level up to Deputy Director General all staff members and any other individuals who should have access to classified information, must be subjected to security vetting."

A security clearance gives access to classified information in accordance with the level of security clearance, subject to the need-to-know principle.

Chapter 5 par 5.1 states "The onus is on the department/institution concerned in each case to indicate expressly in documents sent to the State Tender Board or private contractors whether there are security implications that should be considered in advance when they perform their duties for the department/institution involved. If there are such implications, reasons must be given for the inclusion of a clause in the tender document indicating the degree of clearance required, as well as a clause to ensure the maintenance of security during the performance of the contract. The clause could read as follows:

"Acceptance of this tender is subject to the condition that both the contracting firm and its personnel providing the service must be cleared by the appropriate authorities to the level of CONFIDENTIAL/SECRET/TOP SECRET. Obtaining a positive recommendation is the responsibility of the contracting firm concerned. If the principal contractor appoints a subcontractor, the same provisions and measures will apply to the subcontractor."

3.6. Public Services Act 30 of 2007 Section 15 (1) (b)

Section 15 **Qualifications for appointment.** — (1) No person shall be appointed permanently or be transferred and appointed permanently under section 15 (1), whether on probation or not, to any post unless he or she— (*b*) is of good character

3.7. Public Service Regulations 2001 as amended (Part VII/B.1 of Chapter 1-

States that "An executing authority shall, amongst others, require an employee to be subjected to security clearance where the duties attached to the post are such as to make security clearance necessary.

In addition, Part vii/D.8 (a) stipulates that before deciding on an appointment, an executing authority shall satisfy himself / herself that the candidate qualifies in all respects for the post and that his or her claims in the applications for the post have been verified.

3.8. White Paper on Human Resources Management in the Public Service, 1995

Chapter 5 of the white paper on Human Resource management in the public Service deals with human Resource management in practice. Specifically par 5.2 states that one of the minimum entry requirements for employment in the Public Service is "Good Character"
The White Paper elaborates on the latter as follows: "Applicants for employment should be of good character, law abiding and prepared to conform to the highest standards required by the code of conduct for public servants. It is essential to protect the public interest. Potential employees may therefore be required to provide information about past convictions or misdemeanor which could have a bearing on their suitability for employment in the public service. However, such incidence will not necessarily be a bar to employment if it can be demonstrated that the nature of the incident poses no threat to the public interest, or the incident was sufficiently long ago, and the person's subsequent behaviour indicates that he/she is now rehabilitated"

3.9. King II & III Reports on Corporate Governance

It is required that all organs of state should implement good governance practices. Vetting, as part of risk management and controls, is one such practice. It not only forms part of the process of ethics management needed to highlight ethics risks so as to find mitigating plans for it, but is also about putting in place a process that ensures an organisation both complies with legislation and takes a rounded, balanced and accurate view of a candidates' background. The implications of placing the wrong person in a position can be severe and have potentially high financial and reputational consequences.

3.10. POPI ACT 4 OF 2013

Section 1—Protection of personal information related to an identifiable natural person.

Section 12- legitimizes the Vetting Unit or vetting officer to collect personal information direct from the subject for vetting purposes.

Section 19- Securing the information being collected.

4. PROJECT DESCRIPTION

To appoint a credible service provider registered with the National Credit Regulator in terms of the National Credit Act 34 of 2005 (The Act) to provide a verification system which can enable the Department to conduct the following:

a. Criminal record checks

b. Citizenship verification/Identity verification

c. Financial/Assets record checks

d. Qualification/Study verification

e. Verification of registration with Professional Associations' membership

f. Company probity checks

5. PROJECT GOALS

To ensure the suitability of the candidates for employment and for service providers who will be conducting business with the Department.

6. IMPLEMENTATION FRAMEWORK

To provide access to an online service which will determine the suitability of prospective candidates for employment, current officials and service providers to be contracted to the Department. This criterion relates to determining criminal records (taking of physical fingerprints through electronic scanners), credit/financial reports (financial standing of prospective candidates, current officials and service providers), citizenship/ID verification, qualifications and professional associations membership verification. Bidders must provide and maintain a database to enable the Department to access previous reports requested. Confidentiality of information must be ensured in terms of the applicable legislations. In the event of negligence leading to compromise of confidential information or misconduct the service provider shall be held liable.

7. RESOURCE REQUIREMENTS

- The bidder must be able to integrate current screening equipment (SAGEM Fingerprint Scanners) to their system.
- The bidder will be expected to provide training and onboarding of users to the system.
- Bidder will be required to submit usage reports linked to the requested checks and invoice.

8. TIMEFRAMES & REPORTING FRAMEWORK

This project is envisaged to commence from the date of signing the contract for a period of three years. The service provider will be expected to provide online feedback on requested reports within the following timeframes:

a) Criminal record checks without illicit activity – within 48 hours

b) Criminal record checks with illicit activity – 72 hours

c) Credit/financial record checks – real time to 48 hours

- Consumer Report
- Principal Check
- Deeds/Property Check
- Company Registration
- Tracing/Debt Recovery

d) Academic Qualifications – 48 hours

- Matric Umalusi
- Matric N level
- Professional Associations Membership
- Matric Pre-1992 (**6 weeks or a confirmation letter from the Department of Education**)
- Tertiary RSA
- Tertiary Africa/Global (**72 hours**)

e) ID & Citizenship – Real time to 48 hours

- RSA Citizenship verification
- Permanent residence
- Fraud Listing

f) Drivers' License & Public Drivers Permit (PDP)

- Verification of Drivers' License & PDP

g) Service Provider's verification

- Validity of company registration on CIPC.
- Company VAT registration
- Directorship verification
- Financial standing of the company
- Due diligence/registration with professional bodies/*domicilium citandi* - verification (offices/addresses)

9. DELIVERABLES AND SCHEDULE

Provide an Online System which can be directly accessed by the Department registered users.

Provide online and client liaison support services during office hours.

The following detailed report checks must be provided on a monthly basis:

- Criminal report as per monthly usage.
- Credit/financial reports as per monthly usage.
- Qualifications reports as per requested usage.
- Citizenship/ID Verification reports as per usage.

GOVERNMENT PROCUREMENT

GENERAL CONDITIONS OF CONTRACT

NOTES

The purpose of this document is to:

(i) Draw special attention to certain general conditions applicable to government bids, contracts and orders; and

(ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

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

- The General Conditions of Contract will form part of all bid documents and may not be amended.

- Special Conditions of Contract (SCC) relevant to a specific bid, should be compiled separately for every bid (if applicable) and will supplement the General Conditions of Contract. Whenever there is a conflict, the provisions in the SCC shall prevail.

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 bid 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 bid 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 bid 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 bid 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 bid 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 bid 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 bid 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 bid 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-bid 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 bid 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

13.1 The supplier may be required to provide any or all of the

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

22. Penalties

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

23. Termination for default

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

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

23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms 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 ten (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 :

(a) the name and address of the supplier and/or person restricted by the purchaser;
(b) the date of commencement of the restriction'
(c) the period of restriction; and
(d) the reasons for the restriction.

These details will be loaded in the National Treasury's central data base 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 association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder(s) was/were in collusive bid (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.