

**PART A
INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (THE HOUSING DEVELOPMENT AGENCY (HDA))					
BID NUMBER:	HDA/LIM/2022/006	CLOSING DATE:	28 APRIL 2023	CLOSING TIME:	11:00
DESCRIPTION	APPOINTMENT OF A SERVICE PROVIDER TO PROVIDE SUITABLE OFFICES PARKING SPACE AND CLEANING SERVICES FOR THE HOUSING DEVELOPMENT AGENCY LIMPOPO FOR THE PERIOD OF 40 MONTHS.				
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).					

BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)

THE HOUSING DEVELOPMENT AGENCY (HDA)
Block B, 2nd Floor, 1 Maxwell Drive, Megawatt Park,
Sunninghill, Johannesburg
2157

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			
	TCS PIN:		OR CSD No:
IF YES, WHO WAS THE CERTIFICATE ISSUED BY?			

[A CSD AND SWORN AFFIDAVIT MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR SPECIFIC GOALS]

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ANSWER PART B:3 BELOW]
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SIGNATURE OF BIDDER	DATE	
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CAPACITY UNDER WHICH THIS BID IS SIGNED (Attach proof of authority to sign this bid; e.g. resolution of directors, etc.)			
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TOTAL NUMBER OF ITEMS OFFERED		TOTAL BID PRICE (ALL INCLUSIVE)	
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BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:		TECHNICAL INFORMATION MAY BE DIRECTED TO:	
DEPARTMENT/ PUBLIC ENTITY	Supply Chain Management	CONTACT PERSON	
CONTACT PERSON	Pfarelo Netshisaulu	TELEPHONE NUMBER	
TELEPHONE NUMBER	011 544 1000	FACSIMILE NUMBER	
FACSIMILE NUMBER	None	E-MAIL ADDRESS	
E-MAIL ADDRESS	Pfarelo.netshisaulu@thehda.co.za		

**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. THE BID BOX IS GENERALLY OPEN DURING OFFICE HOURS, MONDAY TO FRIDAY, FROM 08H00 TO 16H00.
1.2.	ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED)
1.3.	BIDDERS MUST REGISTER ON THE CENTRAL SUPPLIER DATABASE (CSD) TO UPLOAD MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS; AND BANKING INFORMATION FOR VERIFICATION PURPOSES).
1.4.	WHERE A BIDDER IS NOT REGISTERED ON THE CSD, MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS MAY NOT BE SUBMITTED WITH THE BID DOCUMENTATION.
1.5.	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 LEGISLATION OR SPECIAL CONDITIONS OF CONTRACT.
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 VIEW THE TAXPAYER’S PROFILE AND TAX STATUS.
2.3	APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.
2.4	BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID.
2.5	IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / PIN / CSD NUMBER.
2.6	WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS	
3.1.	IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <input type="checkbox"/> YES <input type="checkbox"/> NO
3.2.	DOES THE BIDDER HAVE A BRANCH IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO
3.3.	DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO
3.4.	DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO
IF THE ANSWER IS “NO” TO ALL OF THE ABOVE, THEN, IT IS NOT A REQUIREMENT TO OBTAIN A TAX COMPLIANCE STATUS / TAX COMPLIANCE SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.	

NB: FAILURE TO PROVIDE ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.

P.O. Box 3209,
Houghton, 2041
Block B,
Megawatt Office Park
1 Maxwell Drive
Sunninghill
2191



TERMS OF REFERENCE

**REQUEST FOR PROPOSALS FOR THE PROVISION OF SUITABLE OFFICES,
PARKING SPACE AND CLEANING SERVICES FOR THE HOUSING DEVELOPMENT
AGENCY FOR A PERIOD OF 40 MONTHS**

HDA/LIM/2022/006

APPLICATIONS TO BE SUBMITTED BY

NOT LATER THAN

11H00 ON 28 APRIL 2023

1. INTRODUCTION

The Housing Development Agency HDA is a national public development agency established by an Act of Parliament (Act 23 of 2008). The HDA promotes sustainable communities by making well-located land and buildings available for the development of housing and human settlements. As an organ of state, the HDA is accountable through its Board to the Minister of Human Settlements. The agency is currently located on 89 Biccard Street in Polokwane.

2. PURPOSE

The purpose of this tender is to find suitable offices, parking space and cleaning services for the HDA Limpopo Office. Proposals are invited for the provision of leased office space measuring between 450 sqm and 550 sqm with 20 or more parking spaces, for a period of sixty (40) months from date of occupation.

3. LOCATION OF OFFICE SPACE

- 3.1 The building/s must be within the town of Polokwane.
- 3.2 The building/s must be located within an area which is generally safe; must be well secured with visible 24-hour security services including biometrics and cameras. There must be a security management plan.
- 3.3 The building must be situated in an area, and comprise a tenant mix, that is generally free of civil action and strikes.
- 3.4 The building/s must not be situated within a congested area.
- 3.5 The ideal facility should be located within close proximity to public transport.
- 3.6 The building/s should allow for comfortable entrance / exit to and from the street and into the building by staff, visitors and all other HDA stakeholders.
- 3.7 The area within close proximity to the building/s must be free of vendors.

4. REQUIREMENTS

4.1 OFFICE SPACE

- i. The proposed building should be a minimum of B grade office accommodation (or higher).
- ii. The gross lettable area (excluding parking space and land) must be within a range of 450 sqm to 450sqm with the option to renovate the building.
- iii. The bid shall include costing for a minimum of twenty (20) secure onsite parking bays, of which 2 must cater for physically disabled people.

- iv. The parking bays must comply with municipal by-laws, confirmation of which should be included in the proposal.
- v. The building(s) must be an existing facility (complete built structure at the time of bidding) that can be fitted to suit the requirements of the HDA.
- vi. A ramp facility must be provided to cater for people with disability or special need.
- vii. The entire area leased must be for the sole use of the HDA with no toilet; kitchen or canteen facilities being shared with other tenants;
- viii. The building/s must provide separate toilets for both males and females, in line with the minimum number of toilets specified in the National Building Regulations SANS 10400.
- ix. The building/s must make provision for disabled persons as per Part P and Part S of SANS 10400.
- x. The Lessor shall ensure that adequate firefighting equipment is provided and serviced as required in law.
- xi. It is a mandatory requirement that the building/s be provided with an uninterrupted electricity supply. Preference will be given to a solar backup system.
- xii. The building/s must be provided with a backup water supply system.
- xiii. Air conditioning must be provided in the entire lettable space, with maintenance and upkeep remaining the responsibility of the Lessor.
- xiv. If the building has more than three floors (including the ground floor) or more than four (4) floors including basement and ground floor, there must be a passenger lift, which must be maintained by the Lessor on a monthly basis and as and when a breakdown occurs. Records of such maintenance must be kept by the Lessor and must be made available to the Lessee upon request.
- xv. Where the building has several storeys a goods lift must be installed where required, as per SANS Regulations.
- xvi. The building must comply with all legislation, including but not limited to all SANS Regulations; the Occupational Health & Safety Act 85 of 1993 and Municipal By-Laws.
- xvii. The building must be clean, well maintained with facilities being conducive to the HDA's operations.
- xviii. The common areas including the gardens must be well maintained and even after occupation remains the responsibility of the Lessor.
- xix. Exterior signage must be allowed.
- xx. The building insurance will remain the responsibility of the Lessor for the duration of the lease.

- xxi. The Lessor will be responsible for the normal day-to-day electrical, plumbing, air-conditioning and general building repairs and maintenance to ensure a safe and conducive working environment.
- xxii. The proposed leased property must be made available in good condition and clean, bearing in mind latent defects to be identified at least for ninety (90) days after occupation date.
- xxiii. The building/s must make provision for access control and security which must be accessible to both staff and visitors.
- xxiv. A building with a green rating would be advantageous
- xxv. A floor plan of the building drawn to scale should be provided and the CAD drawing must also be made available.
- xxvi. Bidders must provide details of the building/s location and physical address for inspection in loco purposes, before the evaluation process is finalised.

4.2 OFFICE CLEANING

The Bidder is expected to:

- i. Be fully responsible for all work and services performed by its personnel staff.
- ii. Provide and execute cleaning services in accordance with industry standards and norms in terms of the prevailing sectorial determination, and industry acceptable training levels, and any other relevant regulations, including, but not necessarily limited to: -
 - The provision of all Contractors' equipment, qualified, competent, and well-trained personnel, and supervision thereof, required for the servicing of the buildings.
- i. The Bidder shall at all times ensure that all staff is neatly clothed in uniform (with the company logo) with necessary protective equipment which shall include but not limited to headgear, shoes, and hand gloves.
- ii. Provide a roster indicating the staff activities every day, to ensure the smooth operation of the cleaning activities.
- iii. Provide an attendance register for the cleaning staff.
- iv. The Bidder shall provide all necessary equipment (Vacuum Cleaner, Cleaning Trolley, chemicals, toilet consumables, i.e., toilet paper, hand paper towel, for the execution of the work).
- v. The Bidder shall maintain all electrical equipment supplied.
- vi. In cases where the bidder is unable to provide all the requirements for cleaning services inhouse, the bidder is advised to submit letter of Intent to Sub-Contract.

5. SPECIFICATIONS

5.1 OFFICE SPACE

In order to accommodate the needs of the HDA, the following list acts as a guide as to the expected design/layout of the 450 sqm to 550sqm space. The list is in no way exhaustive.

There must be:

- i. One (1) executive Office, measuring 6m x 7m with one interleading door leading into an 8-seater boardroom.
- ii. Twenty (20) individual offices measuring at least 3m x 3m;
- iii. There must be at least one boardroom that can seat up to forty (40) delegates;
- iv. The building must have a server room that is at least 4m x 3m with raised floors (existing fibre connection will be an added advantage);
- v. Provision of 1 strong fire-proof rooms with a minimum size of 4m x 4m.
- vi. Provision of 1 storeroom with a maximum size of 5m x 5m.
- vii. Twenty (20) secure onsite undercover parking or secure shaded parking including access to 2xpeople with disability i.e. ramp.
- viii. The building must offer at least one kitchen with fitted cupboards and plumbed in water coolers.
- ix. There must be at least one canteen area, with a seating capacity of twenty (20) people, which may be combined with the kitchen specified in above.
- x. The proposed building/s must have its own electric distribution board(s).
- xi. The building/s must have an existing fire alarm system as well as fire detection and prevention systems.
- xii. The Lessor must provide firefighting equipment in all leased and common areas, which must be maintained and serviced as per legislation.
- xiii. The lease offered must provide for air-conditioning and maintenance thereof as part of the lease.
- xiv. Provision must be made for a demarcated covered smoking zone according to the specifications in the Tobacco Products Control Amendment Act (No. 83 of 1993).
- xv. The building/s must have a separate electrical meter to enable the HDA to manage, measure and monitor electrical usage.
- xvi. The building must be able to house bulk filers (min of 10 bulk filers).
- xvii. Partitioning / fitting of offices in line with the requirements of the HDA will be the responsibility of the Lessor. The partitioning / fitting should be completed before the HDA takes occupation.

5.2 OFFICE CLEANING

- i. Provide 2x cleaners daily to provide office cleaning services to the premises from Monday to Friday, to start at 07.30 and finish 16h00.
- ii. The appointed Bidder will be expected to provide the following services, but not limited to, on a daily/weekly basis:
 - Keep offices clean
 - Dust picture/mirror frames
 - Dust blinds
 - If necessary, assist with the washing up of cups, mugs, plates, etc. daily
 - Keep bin area clean and remove bins for collection to the point indicated by the landlord.
 - Wipe down and clean desks daily.
 - Vacuum clean carpets three times weekly.
 - Clean windows inside on a bi-weekly basis.
 - Clean main entrance foyer glass windows internally & externally.
 - If necessary: assist with setting up of meeting rooms.
 - If necessary: clean meeting rooms after meetings.
 - Empty bins twice daily.
 - Clean reception area daily.
 - Clean toilets and refill soap dispenser, toilet cleaner dispenser and toilet roll holder.
 - Deep carpet cleaning twice a year to remove stains.
 - Supply of 3 Bail of toilet papers per month.
 - Provide SHE bins and arrange disposal thereof
 - Provide a fumigation service to the HDA on a quarterly basis. Date to be agreed with the office manager. This service to include the materials and spraying of the pesticide.
 - Provide rodent repellent to every office.
 - In cases where the bidder is unable to provide all the requirements for cleaning services inhouse, the bidder is advised to submit letter of Intent to Sub-Contract

6. LEASE REQUIREMENTS

- 6.1 The lease shall be for a period of 40 months.
- 6.2 The lease should allow for a termination clause in the event that the Lessor does not abide by the terms and conditions of the lease.

6.3 A draft lease is to be included for each building submitted for consideration in this bid.

7. MANDATORY REQUIREMENTS

7.1 OFFICE SPACE

- a) In order to ensure compliance with all legislation; business continuity; an operating environment that is conducive to the HDA operations as well as financial security, the following mandatory requirements will apply. Failure to comply with any of the prerequisites will result in disqualification of the bid.
- b) The bidder must confirm that they have read and understood the terms and conditions set out in the special conditions of contract and mandatory clauses to be incorporated into the lease agreement. The bidder must indicate which terms and conditions the bidder does not accept, in the event that the HDA awards the contract to the bidder pursuant to this bid.
- c) The following documents must be submitted with the bid. Failure to do so will result in disqualification:
 - (i) A flexible proposed Lease Agreement with the option to renovate the building;
 - (ii) A complete Pricing Schedule, inclusive of escalation costs which may not exceed 5% per annum.
 - (iii) Any Special Conditions of Contract must be specified in the bid;
 - (iv) Floor Plans with CAD drawings to be submitted with the bid;
 - (v) Proof of valid insurance for the building structure;
 - (vi) Valid occupancy certificate as issued by the Polokwane Municipality;
 - (vii) The lessor is to provide the HDA with an Electrical Certificate of Compliance as well as a certificate indicating the safe working condition of lifts where applicable;
 - (viii) Pictures of the office building in colour.
- a) The successful bidder shall at their own cost maintain public liability insurance for its own personnel/third parties against accidents, injury or death, proof of which must be submitted with bid.
- b) Legislation - The bidder must at all times comply with the provisions of all SANS Regulations; the Occupational Safety and Health Act, 85 of 1993 and Municipal By-Laws with regards to the building; persons using the buildings as well as safety equipment and maintenance of equipment used in the leased premises.

- c) Bidders are to indicate compliance with mandatory requirements below, by ticking the relevant box “Compliant” or “Non-Compliant”. In the event that no tick is made it will be accepted that the bidder does “not comply” and will be disqualified.
- d) It will be expected that bidders can provide evidence or confirm commitment to compliance with all mandatory requirements.
- e) In the event of a physical verification indicating that the bid does not comply with the mandatory requirements, the bid will be disqualified.
- f) The bidder is to indicate under “Substantiate / Comments” below whether the bidder is the owner/landlord or an agent/broker.
- g) Where the bidder is an agent or broker, the bidder must provide proof of having a mandate to act on behalf of the owner/landlord. This must be provided for each building offered.
- h) Where the bidder is an agent or broker, the bidder must confirm that they are registered with the Property Practitioners Regulatory Authority and are in possession of a valid Fidelity Fund certificate. A certified copy of both a valid Property Practitioners Regulatory Authority registration as well as a certified copy of the valid Fidelity Fund certificate must be provided.
- i) The HDA does not pay commission on agent fees.
- j) The Bidder must be registered with the Compensation for Occupational Injuries and Diseases Association (COIDA).

7.2 OFFICE CLEANING

- i. The Bidder must submit a certificate from the National Contract Cleaning Association (NCCA).
- ii. The Bidder must be registered with the Compensation for Occupational Injuries and Diseases Association (COIDA).
- iii. The Bidder must comply with the Occupational Health & Safety Act No 85 of 1983.
- iv. All electrically operated equipment supplies, and materials should be registered with the South African Bureau Standards.
- v. **In cases where the bidder is unable to provide all the requirements for cleaning services inhouse, the bidder is advised to submit letter of Intent to Sub-Contract to appoint a sub-contractor who will be responsible for all cleaning services and the sub-contractor must comply with the requirements above.**

MANDATORY REQUIREMENTS	COMPLIANT	NON-COMPLIANT
The Bidder confirms that the building offered is a complete built structure		
The Bidder confirms that the building offered is a minimum of a grade B		
The Bidder confirms that the building offered is in Polokwane		
The bidder confirms that the building is situated in an area that is generally safe and generally free of civil unrest or strikes. This includes a tenant mix that is also generally free of civil action and strikes.		
The building complies with Part P and Part S of the National Building Regulations SANS 10400 with regards to facilities for people with special needs/ disability (e.g. wheel chair ramp; bathrooms etc).		
The bidder confirms that the lettable area offered is between 450 sqm and 550 sqm. Where the building is larger, it may not exceed 600.		
The bidder confirms that the building can be retro fitted to accommodate the requirements of the HDA.		
The bidder confirms that they are in possession of a Certificate of Occupancy of the building concerned, issued by the Municipality; an Electrical Certificate of Compliance as well as a certificate indicating (where applicable) that the lifts are in a safe working condition. Copies of the certificates are attached.		
The bidder confirms that exterior signage may be erected.		
The bidder confirms that there is an uninterrupted power supply, backed up by either solar power / battery backup and/or back-up via a generator.		
In the event that power supply backup is not available, the Lessor confirms that this will be fitted upon		

MANDATORY REQUIREMENTS	COMPLIANT	NON-COMPLIANT
appointment at the Lessor's cost. Indication must be made as to whether the backup will be solar power with battery backup or generator.		
The bidder confirms that there is a fixed uninterrupted water supply with a backup system that is piped into the building in the event of water outages.		
In the event that a water supply backup is not available, the Lessor confirms that this will be installed upon appointment at the Lessor's cost.		
The Bidder confirms that they in possession of a valid certificate from the National Contract Cleaning Association (NCCA), alternatively that they have submitted a Letter of Intent to Sub-Contract the Office Cleaning Services in line with the requirements as set out in this Bid		
The Bidder confirms that they are registered with Compensation for Occupational Injuries and Diseases Association (COIDA).		
The Bidder confirms that they comply with the Occupational Health & Safety Act No 85 of 1983.		
The Bidder confirms that all electrically operated equipment supplies, and materials comply with the South African Bureau Standards		
Substantiate/Comments:		
<p>The bidder must confirm that they have read and understood the terms and conditions set out in the special conditions of contract and mandatory clauses to be incorporated into the lease agreement.</p> <p>The bidder herewith indicates which terms and conditions the bidder <u>does not</u> accept, in the event that the HDA awards the contract to the bidder pursuant to this bid.</p>		
The bidder must indicate whether they are the owner/landlord or an agent/broker.		

MANDATORY REQUIREMENTS	COMPLIANT	NON-COMPLIANT
Where the bidder is an agent or broker, the bidder must provide proof of having a mandate to act on behalf of the owner/landlord. This must be provided for each building offered.		
Where the bidder is an agent or broker, the bidder must confirm that they are registered with the Property Practitioners Regulatory Authority and are in possession of a valid Fidelity Fund certificate. A certified copy of both a valid Property Practitioners Regulatory Authority registration as well as a certified copy of the valid Fidelity Fund certificate must be provided.		

8. EVALUATION PROCESS

8.1 In order to facilitate a transparent selection process that allows equal opportunity to all service providers, the HDA will adhere to its policy on the appointment of services providers.

8.2 Proposals will be evaluated on the basis of the following criteria:

8.3 Table 1: Functionality

ITEM	DESCRIPTION	DETAILS	WEIGHTING
1	Proposed offices as per specifications and requirements	1a) Square meterage 450sqm to 550 sqm (5) More than 550sqm but less than 600sqm (5) 1b) 20 parking spaces provided in secure under cover parking, with provision for 1 disabled parking bay. (10) 1c) Provision of separate male and female toilets <u>in line with the minimum requirements</u> as laid down in SANS 10400 (5) 1d) Suitability and condition of offices i) Area not congested;	40

ITEM	DESCRIPTION	DETAILS	WEIGHTING
		<p>no vendors in street in front of building and generally no civil unrest (5)</p> <p>ii) Close proximity to public transport (5)</p> <p>1e) Provision of Security and Access Control with cameras (5)</p>	
2	Facilities Management	<p>2a) Availability of fire alarm as well as fire detection and prevention systems as well as firefighting equipment (5)</p> <p>2b) Maintenance by Lessor of firefighting equipment and regular servicing of lifts (3)</p> <p>2c) Double tier cable trays in ceiling voids (3)</p> <p>2d) Provision of designated undercover smoking area away from building (3)</p> <p>2e) Operational maintenance of building in terms of lighting; plumbing; locksmith; electrical repairs etc. (3)</p> <p>2f) Cleaning and maintenance of common areas outside of buildings and gardens (3)</p>	20
3	Provision of uninterrupted electricity supply	<p>3a) Provision of solar, backup battery supply or backup generator</p>	10

ITEM	DESCRIPTION	DETAILS	WEIGHTING
4	Provision of uninterrupted water supply	4a) Provision of fixed backup water system piped into the building during water outages	10
5	Cleaning services	5a) Possession of a valid certificate from the National Contract Cleaning Association (NCCA). (10 points) And 5b) Provision of valid registration with the Compensation for Occupational Injuries and Diseases Association (COIDA). (10 points) Or 5c) Letter of intent to subcontract with adherence to all the requirements of the bid in terms of office cleaning (15 points)	20
TOTAL			100

8.4 The HDA needs to be satisfied, in all respects, that the service provider selected has the necessary resources and capacity and that all submissions are regarded in a fair manner in terms of evaluation criteria and process.

8.5 A site inspection will be conducted on all qualifying bidders.

8.5The following criteria will be used for point's allocation for price and specific goals compliance on **80/20** point system: -

Table 2 – Specific goals

CRITERIA	SUB-CRITERIA	WEIGHTING/ POINTS
Price	Detailed Budget Breakdown	80
Specific goal	Specific goals	20
Total		100

Price Evaluation: The evaluation for price will be done based on the following formula:

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

80/20 or 90/10

$$Ps=80(1+(Pt-P_{max})/(P_{max})) \quad \text{or} \quad Ps=90(1+(Pt-P_{max})/P_{max})$$

Where

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

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

Where

- PS = Points scored for price of tender under consideration
- Pt = Rand value of offer tender consideration
- Pmin = Rand value of lowest acceptable tender

Specific Goals Evaluation: A bidder must submit proof or documentation to claim points for specific goals. A bidder failing to submit proof or documentation to claim points for specific goals will be interpreted to mean that preference points for specific goals are not claimed. The bidder may not be disqualified but will score 0 points out of 20 for specific goals.

9. POINTS AWARDED FOR SPECIFIC GOALS

9.1 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:

9.2 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 3: 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	Proof / Documentation required to Claim Points for Specific Goals
Size of Company (Maximum points = 7 points)		
• EME	7	CSD and Sworn Affidavit
• QSE	5	CSD and Sworn Affidavit
• GE or others	3	Letter from Auditors or Authorised person confirming annual turn over
Black Women Owned (Maximum points = 5 points)		
75% - 100%	5	CSD and Sworn Affidavit
51% - 74.99 -	3	CSD and Sworn Affidavit
Below 51%	1	CSD and Sworn Affidavit
Historically Disadvantaged South Africans* (maximum Points = 8)		
Youth (Maximum points 3)	3	CSD
HDSA	2	CSD and Sworn Affidavit
Disabled People	3	CSD and Sworn Affidavit

*Historically disadvantaged South Africans refers to any person, category of persons, or communities disadvantaged by unfair discrimination before the constitution of the Republic of SA, 1993 (ACT No. 2000 of 1993 come into operations.

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (Tenderer to indicate by a cross or a tick against the selected specific goals)
Size of Company (7)		
• EME	7	
• QSE	5	

• GE	3	
Black women (5)		
75% - 100%	5	
51% - 74.99%	3	
Below 51%	1	
Historically Disadvantaged South Africans* (maximum Points = 8)		
Youth	3	
HDSA	2	
Disabled	3	

11.1 The selection of the qualifying proposal will be at the HDA's sole discretion. The HDA does not bind itself to accept any bid/proposal, and the HDA reserves the right not to appoint the service provider.

12. GENERAL

- 1) The selection of the qualifying proposal will be at the HDA's sole discretion.
- 2) The HDA does not bind itself to accept any bid/proposal, and the HDA reserves the right not to appoint the service provider.
- 3) The HDA expresses that in an event of any service provider being appointed on this job, there is no expectation that any follow up work on this project will be granted to the same service provider.

PRICING SCHEDULE

9.1 Annexure A: Breakdown of total cost:

- (i) All prices must be VAT inclusive and quoted in South African Rands.
- (ii) Any escalations per year not exceeding 5% must be clearly indicated without hidden costs.

Price component	COSTS IN RANDS FOR THE ENTIRE LEASE PERIOD				
	2023	2024	2025	2026	2027
Building Rental					
Parking Costs: Basement Parking Shaded Parking Open Parking					
Fixed Operational costs					
Others services payable					

Price component	COSTS IN RANDS FOR THE ENTIRE LEASE PERIOD				
Indicate breakdown and information on deposit required					
Storage rooms					
Provide information on any other costs not already included					
Indicate Tenant Installation allowance per m ²					
	2023	2024	2025	2026	2027
Number of months of beneficial occupation that will be allowed					
Additional					
Total cost:	R	R	R	R	R

9. ADDITIONAL INFORMATION TO BE SUBMITTED BY THE BIDDERS

- (i) Brief company profile detailing experience relevant to this Terms of Reference.
- (ii) Certificate of incorporation / legal status.
- (iii) Financial proposal.
- (iv) CSD registration report (registration with the National Treasury Central Supplier Database. If not yet registered, please use the following link to register: <https://secure.csd.gov.za>).
- (v) SBD Forms (SBD1, SBD4, SBD6.1, SBD8 and SBD9) obtainable from the HDA Website: www.thehda.co.za/procurement, under compliance checklist.

All submission documents must be in the name of the Lessor even in cases where the Agent/Broker is compiling them on behalf of the Lessor.

10. PAYMENT STRUCTURE

11.1 It is the Lessor's responsibility to provide a detailed monthly rental and utility bill invoice by the 20th of each month for payment before the 7th of the following month.

11. GENERAL REQUIREMENTS

12.1 It is important to note that the successful service providers will work under the supervision of an HDA representative, abide by HDA's Code of Conduct, and other organizational guidelines.

12.3 The following documents must be submitted:

- Central Supplier Database (CSD) Report
- SBD Forms (SBD1, SBD4, SBD6.1, SBD8 and SBD9) obtainable from the HDA website: www.thehda.co.za/procurement. Under compliance checklist.
- Price proposals on all work to be done (Rates for all recruitment projects must be included. The costing breakdown for recruitment services must be clear)

12.3 Further information regarding the Tender can be sent via email to: Pfarelo.Netshisaulu@thehda.co.za or tel: 011 544 1000

12. SUBMISSION OF PROPOSALS

Proposals should be submitted on or before the **28 April 2023** by no later than **11h00** to the following address:

**The Procurement Specialist
The Housing Development Agency,
Block B, 2nd Floor
1 Maxwell Drive
Megawatt Park
Sunninghill
2157**

Tel: 011 544 1000

The selection of the qualifying proposal will be at the HDA's sole discretion. The HDA does not bind itself to accept any particular bid / proposal, and the HDA reserves the right not to appoint the service provider

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

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

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

2. Bidder's declaration

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

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

Full Name	Identity Number	Name of State institution

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

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

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

2.2.1 If so, furnish particulars:

.....
.....

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

2.3.1 If so, furnish particulars:

.....
.....

3 DECLARATION

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

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

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

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

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

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

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

.....
Signature Date

.....
Position Name of bidder

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

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

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

1. GENERAL CONDITIONS

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

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

1.2 To be completed by the organ of state

(delete whichever is not applicable for this tender).

- a) The applicable preference point system for this tender is the **90/10** preference point system.
- b) The applicable preference point system for this tender is the **80/20** preference point system.
- c) Either the **90/10 or 80/20 preference point system** will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

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

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

1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

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

- 1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.
- 1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

2. DEFINITIONS

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

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

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

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

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

Where

- P_s = Points scored for price of tender under consideration
P_t = Price of tender under consideration
P_{min} = 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:

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

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)

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:

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

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

Item	Question	Yes	No
4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

CERTIFICATION

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

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

.....
 SIGNATURE

.....
 DATE

.....
 POSITION

.....
 NAME OF BIDDER

CERTIFICATE OF INDEPENDENT BID DETERMINATION

1. This Standard Bidding Document (SBD) must form part of all bids¹ invited.
2. Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging)² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
3. Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
4. This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
5. In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

¹ Includes price quotations, advertised competitive bids, limited bids and proposals.

² Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and/or services for purchasers who wish to acquire goods and/or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

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

I certify, on behalf of _____ that:
(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.

³ 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.

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder



Application for a Tax Clearance Certificate

Purpose

Select the applicable optionTenders Good standing

If "Good standing", please state the purpose of this application

Two empty text input boxes for stating the purpose of the application.

Particulars of applicant

Name/Legal name (Initials & Surname or registered name)

Trading name (if applicable)

ID/Passport no Company/Close Corp. registered no

Income Tax ref no PAYE ref no

VAT registration no SDL ref no

Customs code UIF ref no

Telephone no Fax no

E-mail address

Physical address

Postal address

Particulars of representative (Public Officer/Trustee/Partner)

Surname

First names

ID/Passport no Income Tax ref no

Telephone no Fax no

E-mail address

Physical address

Particulars of tender (If applicable)

Tender number

Estimated Tender amount R ,

Expected duration of the tender year(s)

Particulars of the 3 largest contracts previously awarded

Date started	Date finalised	Principal	Contact person	Telephone number	Amount
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Audit

Are you currently aware of any Audit investigation against you/the company? YES NO

If "YES" provide details

Appointment of representative/agent (Power of Attorney)

I the undersigned confirm that I require a Tax Clearance Certificate in respect of Tenders or Goodstanding.

I hereby authorise and instruct to apply to and receive from SARS the applicable Tax Clearance Certificate on my/our behalf.

Signature of representative/agent

- -

Date

Name of representative/agent

agent

Declaration

I declare that the information furnished in this application as well as any supporting documents is true and correct in every respect.

Signature of applicant/Public Officer

- -

Date

Name of applicant/Public Officer

Notes:

- It is a serious offence to make a false declaration.
- Section 75 of the Income Tax Act, 1962, states: Any person who
 - fails or neglects to furnish, file or submit any return or document as and when required by or under this Act; or
 - without just cause shown by him, refuses or neglects to-
 - furnish, produce or make available any information, documents or things;
 - reply to or answer truly and fully, any questions put to him ...
 As and when required in terms of this Act ... shall be guilty of an offence ...
- SARS will, under no circumstances, issue a Tax Clearance Certificate unless this form is completed in full.**
- Your Tax Clearance Certificate will only be issued on presentation of your South African Identity Document or Passport (Foreigners only) as applicable.

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

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General Conditions of Contract

1. Definitions

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

RSA.

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

obligations of the supplier covered under the contract.

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

2. Application

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

2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.

2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

3. General

3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.

3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za

4. Standards

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

5. Use of contract documents and information; inspection.

5.1 The supplier shall not, without the purchaser’s prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.

5.2 The supplier shall not, without the purchaser’s prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.

5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier’s performance under the contract if so required by the purchaser.

5.4 The supplier shall permit the purchaser to inspect the supplier’s records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

6. Patent rights

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

7. Performance security

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

8. Inspections, tests and analyses

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

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

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

9. Packing

9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

10. Delivery and documents

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

10.2 Documents to be submitted by the supplier are specified in SCC.

11. Insurance

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

12. Transportation

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

13. Incidental services

13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:

- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
- (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

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

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

14. Spare parts

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

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

15. Warranty

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

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

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

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

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

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

- 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 Programme (NIP)** 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.
- 34 Prohibition of Restrictive practices** 34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
- 34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

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