

**PART A
INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (THE HOUSING DEVELOPMENT AGENCY (HDA))

BID NUMBER:	HDA/FS/2018/007	CLOSING DATE:	09 NOVEMBER 2018	CLOSING TIME:	11:00
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DESCRIPTION	APPOINTMENT OF SUITABLE CONTRACTORS FOR CONSTRUCTION OF WATER, SEWER, ROADS AND STORM WATER SERVICES IN BAKENPARK EXT. 6 AND 7 IN BETHLEHEM
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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 A, RIVIERA ROAD OFFICE PARK

6-10 RIVIERA ROAD

KILLARNEY

SUPPLIER INFORMATION

NAME OF BIDDER

POSTAL ADDRESS

STREET ADDRESS

TELEPHONE NUMBER	CODE	NUMBER
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CELLPHONE NUMBER

FACSIMILE NUMBER	CODE	NUMBER
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E-MAIL ADDRESS

VAT REGISTRATION NUMBER

TCS PIN: OR CSD No:

B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]

<input type="checkbox"/> Yes	<input type="checkbox"/> No	B-BBEE STATUS LEVEL SWORN AFFIDAVIT	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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IF YES, WHO WAS THE CERTIFICATE ISSUED BY?

AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) AND NAME THE APPLICABLE IN THE TICK BOX	<input type="checkbox"/>	AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)
	<input type="checkbox"/>	A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS)
	<input type="checkbox"/>	A REGISTERED AUDITOR

NAME:

[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?	<input type="checkbox"/> Yes <input type="checkbox"/> No	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No
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[IF YES ENCLOSE PROOF]

[IF YES ANSWER PART B:3 BELOW]

SIGNATURE OF BIDDER

DATE

CAPACITY UNDER WHICH THIS BID IS SIGNED (Attach proof of authority to sign this bid; e.g. resolution of directors, etc.)

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	SCM	CONTACT PERSON	Lipalesa Thaanyane
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CONTACT PERSON	Jerry Makofane	TELEPHONE NUMBER	053-409-0220
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TELEPHONE NUMBER	011-544-1000	FACSIMILE NUMBER	011-544-1006/7
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FACSIMILE NUMBER	011-544-1006/7	E-MAIL ADDRESS	Lipalesa.thaanyane@thehda.co.za
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E-MAIL ADDRESS	Jerry.makofane@thehda.co.za
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**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) OR ONLINE	
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), B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.	
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. B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.	
1.5. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER 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.

THE HOUSING DEVELOPMENT AGENCY



TERMS OF REFERENCE

BID NO.: HDA/FS/2018/007

**APPOINTMENT OF SUITABLE CONTRACTORS FOR
CONSTRUCTION OF WATER, SEWER, ROADS AND STORM
WATER SERVICES IN BAKENPARK EXT. 6 AND 7 IN
BETHLEHEM**

SUBMISSION DATE: 09 NOVEMBER 2018

TECHNICAL ENQUIRIES	BIDDING RELATED ENQUIRIES
HDA FREE STATE Ms. Lipalesa Thaanyane – Provincial Manager THE HOUSING DEVELOPMENT AGENCY NO. 97 HENRY STREET WESTDENE BLOEMFONTEIN 9300 Tel: (051) 409 0220	HDA HEAD OFFICE Mr. Jerry Makofane – SCM Office THE HOUSING DEVELOPMENT AGENCY BLOCK A, RIVIERA OFFICE PARK 6 – 10 RIVIERA ROAD KILLARNEY JOHANNESBURG 2193 Tel: (011) 544 1000

NAME OF BIDDER : _____

PHYSICAL ADDRESS : _____

TEL NUMBER : _____

E-MAIL ADDRESS : _____

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1. VERY IMPORTANT NOTICE ON DISQUALIFICATION

A Bid not complying with the peremptory requirements stated hereunder and in the Bid document, will be regarded as being a not **“Acceptable Bid”** and as such will be rejected.

“Acceptable Bid” means any bid which, in all respects, complies with the conditions of Bid and specifications as set out in the bid document, including conditions as specified in the Preferential Procurement Policy Framework Act No. 5 of 2000, revised Preferential Procurement Regulations (2017 Regulations) and related legislations.

1. Submit bid in the correct bid box;
2. Submit bid before closing date and time;
3. Attend the compulsory site/clarification meetings;
4. Attach to the bid document proof of registration with CIDB for minimum Grading of 7CE;

Furthermore, the bid will be considered as not acceptable if:

5. The bidder attempts to influence, or has in fact influenced the evaluation of the bid and/or the awarding of the contract;
6. The bidder during the last 5 years has failed to perform satisfactorily on a previous contract with any organ of state after written notice was given to that bidder that performance was unsatisfactory;
7. The bidder or any of his directors is listed on the Register of Bid Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector;
8. The bidder has abused the HDA's Supply Chain Management System.

Irrespective of the procurement process followed, no award may be given to a person:

- who is in the service of the state, or;
- if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state, or;
- who is an advisor or consultant contracted with the municipality in respect of contract that would cause a conflict of interest, or;
- who is not validly registered with the Department of Labour in terms of the Compensation for Occupation Injuries and Diseases Act 130 of 1993 (as amended).

2. PROJECT BACKGROUND

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. Visit www.thehda.co.za for more information.

The HDA has been appointed by the Free State Department of Human Settlement to implement the Bakenpark Ext. 6 & 7 Township Establishment Project on its behalf. The project entails provision of civil engineering services for approximately 1 465 sites. To ensure effective implementation of the project, the HDA intends to appoint a suitable Contractor (registered with CIDB) for construction of water, sewer, roads and storm water services in Bakenpark Ext. 6 and 7 in Bethlehem.

3. PROJECT LOCATION

Bakenpark is located in Bethlehem, north of the CBD, under the jurisdiction of the Dihlabeng Local Municipality in the Free State Province. The township of Bakenpark falls within the Riemland corridor.

The Bakenpark development is easily accessible from a number of major roads, including the N5, R26, R76 and R714. The N5 National Route connects Bloemfontein to the South-West of Bethlehem to Harrismith in the East and then to Durban via the N3 National Route. The R26 connects Bethlehem to Reitz in the North and to Fouriesburg in the south of the town. These major routes also link residential developments of Bakenpark with Bohlokong. In addition, Bethlehem town is traversed by the railway line from Cape Town to Johannesburg and Durban.

The Central Co-ordinates of the project location are as follows:

S 28° 12' 53.06", E 28° 20' 53.50". Below is the layout of Bakenpark location.



4. SCOPE OF WORK

The appointed contractors will be expected to carry out the necessary activities to construct the following infrastructure:

- Bulk Water Supply Draw-off Pipe from the Municipal existing Treated Bulk Water Supply System;
- 48 Hours Storage Reservoir with enough capacity to cater for 1 465 sites;
- Bulk Water Supply Pipes from the Storage Reservoir to both Ext. 6 and Ext. 7;
- Internal Water and Sewer Network for both Ext. 6 and Ext. 7;
- Bulk Sewer for both Ext. 6 and Ext. 7;
- Ext. 6 Sewer Pump Station with enough capacity to cater for 181 sites;
- Ext. 7 Sewer Pump Station with enough capacity to cater for 1 284 sites;
- Rising main linking Ext. 6 and Ext. 7 Sewer Pump Stations;

- Rising main linking Ext. 7 Sewer Pump Station and the existing Ext. 5 Sewer Pump Station, and;
- Internal Roads and Storm Water Network for both Ext. 6 and Ext. 7.

4.1. WORK PACKAGES

The above scope will be grouped in two (2) Work Packages as indicated below and a contractor will be appointed for each Work Package:

4.1.1.WORK PACKAGE 1 – BULK SERVICES

The appointed contractor will be expected to carry out the necessary activities to construct the following infrastructure:

- Bulk Water Pipe from Municipal Source;
- Storage Reservoir;
- Bulk Water Supply from the Storage Reservoir to Ext. 6;
- Bulk Sewer for both Ext. 6;
- Ext. 6 Sewer Pump Station;
- Rising main linking Ext. 6 and Ext. 7 Sewer Pump Stations;
- Ext. 7 Sewer Pump Station, and;
- Rising main linking Ext. 7 Sewer Pump Station and the existing Ext. 5 Sewer Pump Station.

4.1.2.WORK PACKAGE 2 – INTERNAL SERVICES

The appointed contractor will be expected to carry out the necessary activities to construct the following infrastructure:

- Internal Water and Sewer Network for Ext. 6, and;
- Internal Roads and Storm Water Network for Ext. 6.

The minimum CIDB Grading requirement for each Work Package is 7CE.

5. BID NOTICE AND INVITATION TO BID

Suitable Contractors, who are in good standing with the South African Revenue Services, are hereby invited to submit proposals for the provision of the following service:

Project Name	Bid No.	CIDB Grading	Compulsory Briefing Session	Evaluation Criteria	Enquiries
Construction of water, sewer, roads and storm water services in Bakenpark Ext. 6 and 7 in Bethlehem	HDA/FS/2018/007	7CE or higher	HDA Free State, No. 97 Henry Street, Westdene, Bloemfontein, 9300	<ul style="list-style-type: none">• Pre-qualification• Functionality	Ms. Lipalesa Thaanyane Tel: 051 409 0220

Bid documents (to be supplied at no cost to the bidder) will be available for collection from **19 October 2018**, HDA Free State Offices, located at No. 97 Henry Street, Westdene, Bloemfontein, 9300, during office hours from **08:00 to 16:00, Monday to Friday**. Alternatively, bidders can download the bid document from the HDA website www.thehda.co.za/tenders.

Bids must be completed in accordance with the conditions and bid rules contained in the bid documents and be sealed, together with supporting documents, in an envelope or package clearly marked:

"Bid Number: HDA/FS/2018/007 – Construction of water, sewer, roads and storm water services in Bakenpark Ext. 6 and 7 in Bethlehem"

and be placed in a bid box located at the HDA Free State Offices, located at No. 97 Henry Street, Westdene, Bloemfontein, 9300, not later than **12:00 on the 9th November 2018**. No faxed, e-mailed or late bids will be accepted.

Bidders' attention is specifically drawn to the provisions of the bid rules and evaluation criteria which are included in the bid document. The HDA may accept or reject any variation, deviation, bid offer, or alternative bid offer, and may cancel the bid process and reject all bids at any time before the formation of a contract. The HDA shall not incur any liability to a bidder for such cancellation and rejection but will give written reasons for such action upon request to do so. Bids may only be submitted on the Bid Document provided by the HDA.

The following documentation must be submitted together with the bid document: Original and Valid Tax Clearance Certificate with Tax Compliance Status (SARS Pin), copy of Company Registration Certificate, copies of IDs of Directors, copy of valid Workmen's Compensation Certificate, proof of registration with the Construction Industry Development Board (CIDB), copy of proof of payment for Municipal Services and other compulsory documents stated in the Bid Document. Please note that these documents must be submitted for each company in case of Joint Venture or Partnership.

Bids will be opened in public as soon as possible after the closing time.

All Technical enquiries are to be directed to Ms. Lipalesa Thaanyane at 051 409 0220.

6. BID DATA

The conditions of Bids are the Standard Conditions of Bid as contained in Annex F of the CIDB Standard for Uniformity in Construction Procurement (see www.cidb.org.za).

The Standard Conditions of Bids makes several references to the Bid Data for details that apply specifically to this Bid. The Bid Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the Standard Conditions of Bid. Each item of data provided below is cross-referenced to the clause in the Standard Conditions of Bid to which it mainly applies.

The additional Conditions of Bid are:

Clause Number	Bid Data
F1.1	The Employer is the Housing Development Agency
F1.4	Communication and Employer's agent

Each communication between the Employer and a Bidder shall be to or from the Employer's agent only, and in a form that can be read, copied and recorded. Writing shall be in the English language. The Employer shall not take any responsibility for non-receipt of communications from or by a bidder.

The Employer's agent is:

Name : Ms. Lipalesa Thaanyane
Address : No. 97 Henry Street, Westdene, Bloemfontein, 9300
Tel. : 051 409 0220
E-mail : lipalesa.thaanyane@thehda.co.za

F2.1 Only those Bidders that have capacity and experience to carry out activities required for construction of civil engineering services as indicated in the Scope of Works are eligible to submit bids.

Only those Bidders who are registered with the CIDB, or are capable of being so, prior to the evaluation of submissions, in a 7CE or higher class of construction work, are eligible to submit bids.

A Bidder will not be eligible to submit a bid if:

- (a) the Bidder is under restrictions or has principals who are under restriction to participate in the Employer's procurement due to corrupt or fraudulent practices;
- (b) the Bidder does not have the legal capacity to enter into the contract;
- (c) the Bidder submitting the bid is insolvent, in receivership, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of the foregoing;
- (d) the Bidder does not comply with the legal requirements stated in the Employer's procurement policy;

- (e) the Bidder cannot provide proof that he is in good standing with respect to duties, taxes, levies and contributions required in terms of legislation applicable to the work in the contract.

F2.7 The arrangements for a compulsory clarification meeting are as stated in the Bid Notice and Invitation to Bid.

Bidders must sign the attendance list in the name of the Bidding entity. Addenda will be issued to and bids received only from those bidding entities appearing on the attendance registers.

F2.8 A clarification with the Employer regarding the Bid Document may be requested in writing at least five working days before the closing time stated in the Bid Notice and Invitation to Bid.

F2.11 Do not make any alterations or additions to the Bid Document, except to comply with instructions issued by the Employer, or necessary to correct errors made by the bidder. All signatories to the Bid shall initial all such alterations. Erasures and the use of masking fluid are prohibited.

F2.12 No alternative bids will be considered.

F2.13.3 Parts of each Bid communicated on paper shall be submitted as original.

F2.13.5 The Employer's address for delivery of Bid offers and identification details to be shown on the Bid offer package are:

Location of Bid box : Tender Box, Housing Development Agency, Bloemfontein
Physical Address : 97 Henry Street, Westdene, Bloemfontein, 9300

Identification details : Bid Number, title of Bid and the closing date and time of the Bid.

Postal Address : P.O. Box 3220, Bloemfontein, 9300

F2.14 Bids which do not provide all the data or information requested completely and in the form required, may be regarded by the Employer as non-responsive.

F2.15.1 The closing time for submission of Bids is as stated in the Bid Notice and Invitation to Bid.

Telephonic, telegraphic, telex, facsimile or e-mailed Bid offers will not be accepted.

F3.4 Bids will be opened immediately after the closing time for bids at the Housing Development Agency Office in Bloemfontein.

7. EVALUATION OF BIDS

The bids will be evaluated in three (3) stages, namely:

- Stage 1 : Pre-qualification
- Stage 2 : Functionality
- Stage 3 : Financial Offer and Preference

7.1. STAGE 1: PRE-QUALIFICATION

Failure of the Bidder to comply with the following will result in immediate disqualification:

- (i) Proof of attendance of Compulsory Briefing Session (Signing of Attendance Register);
- (ii) Submission of copy of valid Workmen's Compensation Certificate issued by Department of Labour. A copy of valid Workmen's Compensation Certificate for each member/partner must be submitted for Joint Venture/Partnership;
- (iii) Registration with Construction Industry Development Board (CIDB), with a grading of 7CE or higher. A joint proof of CIDB registration must be submitted for Joint Venture or Partnerships, and;
- (iv) Submission of proof of a bidder having a Level 1 status as a minimum B-BBEE Status Level of Contributor. A Joint proof of B-BBEE Status Level of Contributor must be submitted for Joint Venture or Partnerships

7.2. STAGE 2: FUNCTIONALITY

Functionality evaluation criteria test bidders' ability to provide services required. Responsive bids submitted will be evaluated according to the predetermined criteria described below, considering, among other factors, skills, quality, reliability, technical capacity, experience, previous performance and value for money.

A Bid will not be evaluated further if it fails to meet the minimum threshold of total 70 points out of maximum 100 points for functionality as prescribed in the following tables:

CATEGORY	FUNCTIONAL CRITERIA	POINTS ALLOCATION
I	Experience of the bidder	30
II	Key personnel qualifications and experience	40
III	Bidder's Financial Capacity	10
IV	Locality within Free State	20
TOTAL POINTS		100

7.2.1. EXPERIENCE OF THE BIDDER (30 POINTS)

The Bidder must submit proof of successfully completed similar and comparative projects, i.e. **Civil Engineering Works – Installation of Water, Sewer, Roads and Storm Water Network**.

Copies of Appointment Letter and Completion Certificate must be attached for each project.

TARGETED GOALS	POINTS ALLOCATION
Bidder has submitted inadequate or no information to determine points to be allocated	0
Bidder has submitted proof of at least 1 successfully completed similar project with a value of R9 000 000.00 or more	10
Bidder has submitted proof of at least 2 successfully completed similar projects with a value of R9 000 000.00 or more for each project	20
Bidder has submitted proof of at least 3 successfully completed similar projects with a value of R9 000 000.00 or more for each project	30

7.2.2. KEY PERSONNEL QUALIFICATIONS AND EXPERIENCE (40 POINTS)

The Bidder must submit Proposed Team Structure, identifying **Contracts Manager, Site Agent and Safety Officer** as key personnel. Copies of CVs and certificates for each key personnel must be attached for determination of points to be allocated as per the table below:

KEY PERSONNEL	TARGETED GOALS	POINTS ALLOCATION
Contracts Manager	Inadequate or no information submitted to determine points to be allocated or a CV of Contracts Manager with no proof of registration with Engineering Council of South Africa (ECSA) as Professional Engineering Technologist and/or less than 5 years of relevant experience submitted	0
	A CV of Contracts Manager with proof of registration with Engineering Council of South Africa (ECSA) as a Professional Engineering Technologist and 5 years of relevant experience submitted	10
	A CV of Contracts Manager with proof of registration with Engineering Council of South Africa (ECSA) as a Professional Engineer and 5 years of relevant experience submitted	20
Site Agent	Inadequate or no information submitted to determine points to be allocated or a CV of Site Agent with less than 3 years of relevant construction experience submitted	0
	A CV of Site Agent with 3 – 5 years of relevant construction experience submitted	5
	A CV of Site Agent with more than 5 years of relevant construction experience submitted	10
Safety Officer	Inadequate or no information submitted to determine points to be allocated or a CV of Safety Officer without First Aid plus OHSA (Construction Regulations) qualification and no experience in Construction Safety	0
	A CV of Safety Officer with First Aid plus OHSA (Construction Regulations) qualification and 1 – 3 years of experience in Construction Safety submitted	5
	A CV of Safety Officer with First Aid plus OHSA (Construction Regulations) qualification and more than 3 years of experience in Construction Safety submitted	10

7.2.3. FINANCIAL CAPACITY (10)

The Bidder must demonstrate their Financial Capacity to execute the projects, by attaching letter from the bank with their rating. Failure by the Bidder to provide the required bank rating with the Bid, will lead to the conclusion that the Bidder does not have the necessary financial resources at their disposal to successfully complete the project that ranges within the CIDB Grade 7 bracket (R13 000 000.00 – R40 000 000.00).

Points will be allocated as follows:

TARGETED GOALS	POINTS ALLOCATION
Inadequate or no information submitted to determine points to be allocated or a letter from the Bank with Rating less than C submitted	0
A letter from the Bank with Rating of C submitted	3
A letter from the Bank with Rating of B submitted	6
A letter from the Bank with Rating of A submitted	10

7.2.4. LOCALITY (20)

The Bidder must demonstrate that they are a Free State based Contractor or at least have a base in Free State Province by attaching proof of address in the form of one of the following documents:

- Copy of the latest Municipal Rates and Taxes Account, or;
- Copy of the signed and valid Lease Agreement.

Points will be allocated as follows:

TARGETED GOALS	POINTS ALLOCATION
Inadequate or no information submitted to determine points to be allocated	0
The Bidder has submitted proof of residence within Free State Province	20

7.3. STAGE 3 – FINANCIAL OFFER AND PREFERENCE

Bids that meet the prescribed Stage 1 and 2 Evaluation Criteria, will qualify for Stage 3 Evaluation – Financial Offer and Preference, whereby Bill of Quantities (BoQs) will be issued for pricing. The priced BoQs received will then be evaluated further using the 2017 Regulations of the Preferential Procurement Policy Framework Act No. 5 of 2000 as follows:

- (1) The following formula will be used to calculate the points out of 80 for price in respect of a tender value, inclusive of all applicable taxes:

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

Where

- P_s = Points scored for price of tender under consideration;
 P_t = Price of tender under consideration, and;
 P_{\min} = Price of lowest acceptable tender.

- (2) The following table must be used to calculate the score out of 20 for BBEE:

B-BBEE Status Level of Contributor	Number of points (80/20 system)
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- (3) A tenderer must submit proof of its B-BBEE status level of contributor.
- (4) A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified, but:
- (a) may only score points out of 80 for price, and;
 - (b) scores 0 points out of 20 for B-BBEE.
- (5) A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.
- (6) The points scored by a tenderer for B-BBEE in terms of sub-regulation (2) must be added to the points scored for price under sub-regulation (1).
- (7) The points scored must be rounded off to the nearest two decimal places.
- (8) Subject to sub-regulation (9) and regulation 11, the contract must be awarded to the tenderer scoring the highest points.

(9) (a) If the price offered by a tenderer scoring the highest points is not market related, the organ of state may not award the contract to that tenderer.

(b) The organs of state may

(i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;

(ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;

(iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.

(c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

8. LIST OF RETURNABLE SCHEDULES

The bidder must complete the following returnable schedules for evaluation purposes:

- **Schedule A : Certificate of Bidder's attendance at the Compulsory Clarification Meeting**
- **Schedule B : Certificate of Authority of Signatory**
- **Schedule C : Company Registration Details**
- **Schedule D : Certificate of Registration with CIDB**
- **Schedule E : Functionality Evaluation**
- **Schedule F : Proof of BBB-EE Status Level of Contributor**

**8.1. SCHEDULE A: CERTIFICATE OF BIDDER'S ATTENDANCE AT THE
COMPULSORY CLARIFICATION MEETING**

This is to certify that I, _____

Representative of (Bidder) _____

of (Address) _____

Telephone number _____

E-mail Address _____

Attended the Clarification Meeting held at the HDA Free State Offices in Bloemfontein on (date)

SIGNATURE OF BIDDER'S REPRESENTATIVE _____

8.2. SCHEDULE B: CERTIFICATE OF AUTHORITY FOR SIGNATORY

Indicate the status of the Bidder by ticking the appropriate box hereunder. The Bidder must complete the certificate set out below for the relevant category.

(I) COMPANY	(II) CLOSE CORPORATION	(III) JOINT VENTURE	(IV) PARTNERSHIP	(V) SOLE PROPRIETOR

Signatories for Companies, Close Corporations, Partnerships, Joint Ventures or Sole Proprietors must establish their authority thereto by attaching a copy of the relevant resolution of their Board of Directors, Members or Partners duly signed and dated.

(I) CERTIFICATE FOR COMPANY

I, _____ chairperson of the Board of
Directors of _____,

hereby confirm that by resolution of the Board (copy attached) taken on _____ 20____,

Mr/Ms _____

acting in the capacity as _____,

is authorized to sign all documents in connection with the Bid No. _____,
and any contract resulting from it, on behalf of the company.

Chairman : _____

Witness (1) : _____ Witness (2) : _____

(II) CERTIFICATE FOR CLOSE CORPORATION

We, the undersigned, being the key members in the business trading as

_____ hereby authorise Mr/Ms _____,

acting in the capacity of _____

to sign all documents in connection with the Bid No. _____ and any contract resulting from it, on our behalf.

NAME	ADDRESS	SIGNATURE	DATE

Note: This certificate is to be completed and signed by all key members upon whom rests the directions of the affairs of the Close Corporation as a whole.

(III) CERTIFICATE JOINT VENTURE

We, the undersigned, are submitting this Bid in Joint Venture and hereby authorize

Mr/Ms _____,

authorized signatory of the Joint Venture _____

_____ acting in the capacity of lead partner, to sign all documents in connection with the

Bid No. _____ and any contract resulting from it, on our behalf. This authorization is evidenced by the attached power of attorney signed by legally authorized signatories of all the partners to the Joint Venture.

NAME OF FIRM	ADDRESS	DULY AUTHORISED SIGNATORY
		Name
		Signature
		Designation
		Name
		Signature
		Designation
		Name
		Signature
		Designation

Note: This certificate is to be completed and signed by all the key partners upon whom rests the direction of the affairs of the Partnership as a whole.

(IV) CERTIFICATE FOR PARTNERSHIP

We, the undersigned, being the key partners in the business trading as _____

hereby authorise Mr/Ms _____,

acting in the capacity of _____

to sign all documents in connection with the Bid No. _____ and any contract resulting from it, on our behalf.

NAME	ADDRESS	SIGNATURE	DATE

Note: This certificate is to be completed and signed by all key members upon whom rests the direction of the affairs of Partnership as a whole.

(V) CERTIFICATE FOR SOLE PROPRIETOR

I, _____,

hereby confirm that I am the sole owner of the business trading as _____

Signature of Sole Owner : _____

Date : _____

Witness (1) : _____

Witness (2) : _____

8.3. SCHEDULE C: COMPANY REGISTRATION DETAILS

The Bidder must provide Company Registration details on the space provided below and attach Certificates as proof of Registration. Copies of IDs of Directors must also be attached.

NAME OF COMPANY : _____

COMPANY REGISTRATION NUMBER : _____
NO. OF DIRECTORS/SHAREHOLDERS : _____

The space below must be used in the case of Joint Venture or partnership.

1. NAME OF COMPANY : _____

CO. REGISTRATION NUMBER : _____
NO. DIRECTORS/SHAREHOLDERS : _____

2. NAME OF COMPANY : _____

CO. REGISTRATION NUMBER : _____
NO. DIRECTORS/SHAREHOLDERS : _____

3. NAME OF COMPANY : _____

CO. REGISTRATION NUMBER : _____
NO. DIRECTORS/SHAREHOLDERS : _____

4. NAME OF COMPANY : _____

CO. REGISTRATION NUMBER : _____
NO. DIRECTORS/SHAREHOLDERS : _____

5. NAME OF COMPANY : _____

CO. REGISTRATION NUMBER : _____
NO. DIRECTORS/SHAREHOLDERS : _____

8.4. SCHEDULE D: CERTIFICATE OF REGISTRATION WITH CIDB

FOR CIVIL ENGINEERING WORKS (INSTALLATION OF WATER, SEWER, ROADS AND STORM WATER NETWORK) – GRADE 7CE OR HIGHER

The Bidder shall provide required details as requested below:

FOR SOLE CONTRACTOR BID:

Name of Contractor : _____

Contractor Grading Designation : _____

CIDB Contractor Register (CRS) Number : _____

FOR JOINT VENTURE BID:

Name of Contractor (1) : _____

Contractor Grading Designation : _____

CIDB Contractor Register (CRS) Number : _____

Name of Contractor (2) : _____

Contractor Grading Designation : _____

CIDB Contractor Register (CRS) Number : _____

Name of Contractor (3) : _____

Contractor Grading Designation : _____

CIDB Contractor Register (CRS) Number : _____

Name of Contractor (4) : _____

Contractor Grading Designation : _____

CIDB Contractor Register (CRS) Number : _____

Name of Contractor (5) : _____

Contractor Grading Designation : _____

CIDB Contractor Register (CRS) Number : _____

Joint CIDB Grading : _____

8.5. SCHEDULE E: FUNCTIONALITY EVALUATION

The following forms must be completed to determine the functionality evaluation.

RELATED EXPERIENCE OF BIDDER
(NB: This schedule is used in evaluating Functionality)

The Bidder shall list below or in a separate schedule a statement of those works/services of similar nature (Civil Engineering Works – Installation of Water, Sewer, Roads and Storm Water), which they have satisfactorily completed in the past five years. Information must be provided in the format provided below. It is essential that telephone contact details of references be supplied.

Please Note : Copies of Appointment Letter and Completion Certificate for each Project must also be attached as proof.

PROJECT NAME	PROJECT VALUE	COMPLETION DATE	CONTACT PERSON

NB: Please attach separate page if space provided is not sufficient

SIGNATURE: _____ DATE: _____
 (Authorised Person)

LIST OF KEY PERSONNEL

(NB: This schedule is used in Evaluating Functionality)

The Bidder shall attach hereto a shortened CV (with copies of required certificates) for each key personnel available to work on the project in the Categories of Contracts Manager, Site Agent and Safety Officer.

The Bidder shall list below the key personnel to be used on this project.

NAME	POSITION	QUALIFICATIONS	YEARS OF EXPERIENCE
	CONTRACTS MANAGER		
	SITE AGENT		
	SAFETY OFFICER		

SIGNATURE: _____ DATE: _____
(Authorised Person)

8.6. SCHEDULE F – PROOF OF BROAD-BASED BLACK ECONOMIC EMPOWERMENT (BBBEE) STATUS LEVEL OF CONTRIBUTOR

To claim points for any Status Level, the bidder must demonstrate compliance with the Broad-Based Black Economic Empowerment Act No. 53 of 2003, and applicable amendments and regulations, by attaching hereto the proof of B-BBEE Status Level of Contributor of the Bidding Company and/or Joint Venture Partners.

“Proof of B-BBEE status level of contributor” means:

- (a) the B-BBEE status level certificate issued by an authorised body or person;
- (b) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice, or;
- (c) any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act.

Please Note:

- Only B-BBEE status level certificates issued by the Verification Agencies accredited by the South African National Accreditation System (SANAS) are valid;
- A Joint proof of B-BBEE Status Level of Contributor must be submitted for Joint Venture or Partnerships, and;
- Failure to submit the proof of B-BBEE Status Level of Contributor will not be a disqualifying factor, and no points will be claimed for any Status Level.

9. ACCEPTANCE OF SUCCESSFUL BIDS

Over and above meeting the predetermined evaluation criteria, the bid will only be accepted if, in the opinion of the HDA, it does not present any risk and if the bidder:

- a) is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement;
- b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract;
- c) has the legal capacity to enter into the contract;
- d) is not insolvent, in receivership, under Business Rescue as provided for in chapter 6 of the Companies Act, 2008, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing,
- e) complies with the legal requirements, if any, stated in the bid data, and
- f) is able, in the opinion of the employer, to perform the contract free of conflicts of interest.

10. SUBCONTRACTING AS CONDITION OF BID

Subcontracting condition will apply in this bid, whereby a minimum of 30% of the value of each Work Package Contract will be subcontracted to:

- an EME or QSE which is at least 51% owned by black people who are women.

TAX CLEARANCE CERTIFICATE REQUIREMENTS

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

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



Application for a Tax Clearance Certificate

Purpose

Select the applicable option Tenders Good standing

If "Good standing", please state the purpose of this 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	7
VAT registration no	4	SDL ref no	L
Customs code		UIF ref no	U
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

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

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.

SBD 4

DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes an advertised competitive bid, a limited bid, a proposal or written price quotation). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-

- the bidder is employed by the state; and/or
- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

2. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

2.1 Full Name of bidder or his or her representative:

2.2 Identity Number:.....

2.3 Position occupied in the Company (director, trustee, shareholder², member):
.....

2.4 Registration number of company, enterprise, close corporation, partnership agreement or trust:
.....

2.5 Tax Reference Number:

2.6 VAT Registration Number:

2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / PERSAL numbers must be indicated in paragraph 3 below.

¹"State" means –

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

²"Shareholder" means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.

2.7 Are you or any person connected with the bidder presently employed by the state? **YES / NO**

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member:
Name of state institution at which you or the person connected to the bidder is employed :
Position occupied in the state institution:

Any other particulars:
.....
.....
.....

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? **YES / NO**

2.7.2.1 If yes, did you attach proof of such authority to the bid document? **YES / NO**

(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.

2.7.2.2 If no, furnish reasons for non-submission of such proof:
.....
.....
.....

2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months? **YES / NO**

2.8.1 If so, furnish particulars:
.....
.....
.....

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

2.9.1 If so, furnish particulars.
.....

4 DECLARATION

I, THE UNDERSIGNED (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT.
I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME SHOULD THIS
DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

November 2011

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to this bid:

- The 80/20 system for requirements with a Rand value below R50 000 000 (all applicable taxes included).

1.2 The value of this bid is estimated not exceed R 50 000 000 (all applicable taxes included) and therefore the.....80/20.....system shall be applicable.

1.3 Preference points for this bid shall be awarded for:

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

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

	POINTS
1.3.1.1 PRICE
1.3.1.2 B-BBEE STATUS LEVEL OF CONTRIBUTION
Total points for Price and B-BBEE must not exceed	100
1.4 Failure on the part of a bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS) or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or an Accounting Officer as contemplated in the Close Corporation Act (CCA) together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.	
1.5. The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.	

2. DEFINITIONS

- 2.1 **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- 2.2 **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- 2.3 **“B-BBEE status level of contributor”** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- 2.4 **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- 2.5 **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- 2.6 **“comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- 2.7 **“consortium or joint venture”** 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;
- 2.8 **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- 2.9 **“EME”** means any enterprise with an annual total revenue of R5 million or less .
- 2.10 **“Firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- 2.11 **“functionality”** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- 2.12 **“non-firm prices”** means all prices other than “firm” prices;
- 2.13 **“person”** includes a juristic person;
- 2.14 **“rand value”** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- 2.15 **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
- 2.16 **“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;
- 2.17 **“trust”** means the arrangement through which the property of one person is made over or

bequeathed to a trustee to administer such property for the benefit of another person; and

- 2.18 “trustee” means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts;.
- 3.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
- 3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
- 3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

4. POINTS AWARDED FOR PRICE

4.1 The 80/20 PREFERENCE POINT SYSTEMS

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

80/20

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

Where

P_s = Points scored for comparative price of bid under consideration

P_t = Comparative price of bid under consideration

P_{\min} = Comparative price of lowest acceptable bid

5. Points awarded for B-BBEE Status Level of Contribution

- 5.1 In terms of Regulation 5 (2) and 6 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (80/20 system)
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- 5.2 Bidders who qualify as EMEs in terms of the B-BBEE Act must submit a certificate issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates.
- 5.3 Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- 5.4 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 5.6 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 5.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

6. BID DECLARATION

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

7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.3.1.2 AND 5.1

7.1 B-BBEE Status Level of Contribution: =(maximum of 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the CCA).

8 SUB-CONTRACTING

8.1 Will any portion of the contract be sub-contracted? YES / NO (delete which is not applicable)

8.1.1 If yes, indicate:

- (i) what percentage of the contract will be subcontracted?%
- (ii) the name of the sub-contractor?
- (iii) the B-BBEE status level of the sub-contractor?
- (iv) whether the sub-contractor is an EME? YES / NO (delete which is not applicable)

9 DECLARATION WITH REGARD TO COMPANY/FIRM

9.1 Name of company/firm :

9.2 VAT registration number :.....

9.3 Company registration number
:

9.4 TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One person business/sole propriety
- Close corporation
- Company
- (Pty) Limited

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

9.6 COMPANY CLASSIFICATION

- Manufacturer
- Supplier
- Professional service provider
- Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

9.7 Total number of years the company/firm has been in business?

9.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in paragraph 7 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- (i) The information furnished is true and correct;
- (ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form.
- (iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- (iv) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the audi alteram partem (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution

WITNESSES:

1.

.....
SIGNATURE(S) OF BIDDER(S)

2.

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? (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)? 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"/>
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:		

SBD 8

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.
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.

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.

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

Js914w 2

THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT

July 2010

GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT
July 2010

NOTES

The purpose of this document is to:

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

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

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

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General Conditions of Contract

1. Definitions

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

RSA.

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

obligations of the supplier covered under the contract.

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

2. Application

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

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

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

3. General

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

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

4. Standards

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

5. Use of contract documents and information; inspection.

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

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

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

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

6. Patent rights

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

7. Performance security

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

8. Inspections, tests and analyses

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

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

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

9. Packing

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

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

10. Delivery and documents

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

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

11. Insurance

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

12. Transportation

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

13. Incidental services

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

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

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

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

14. Spare parts

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

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

15. Warranty

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

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

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

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

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

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

- 16. Payment**
- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated in SCC.
- 17. Prices**
- 17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.
- 18. Contract amendments**
- 18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.
- 19. Assignment**
- 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.
- 20. Subcontracts**
- 20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.
- 21. Delays in the supplier's performance**
- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the

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

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

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

22. Penalties

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

23. Termination for default

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

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

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

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

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

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

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

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

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

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

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

24. Anti-dumping and countervailing duties and rights

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

may be due to him

- 25. Force Majeure**
- 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- 25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.
- 26. Termination for insolvency**
- 26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.
- 27. Settlement of Disputes**
- 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- 27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 27.5 Notwithstanding any reference to mediation and/or court proceedings herein,
- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
 - (b) the purchaser shall pay the supplier any monies due the supplier.
- 28. Limitation of liability**
- 28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;
- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

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

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

Js General Conditions of Contract (revised July 2010)