

BID NUMBER: HDA/HO/2024/021

THE APPOINTMENT OF A PROFESSIONAL RESOURCE TEAM TO PROVIDE HANDS-ON MULTI-DISCIPLINARY TECHNICAL DELIVERY CAPACITY SUPPORT FOR THE REFURBISHMENT OF THE EXISTING FORMER ESKOM OFFICE BUILDING INTO A PILOT SOCIAL HOUSING PROJECT BY THE HDA IN BRAAMFONTEIN JOHANNESBURG

CLOSING DATE	05 August 2024
CLOSING TIME	11:00
Compulsory briefing session	<p>To Held at the following address, date and time:</p> <p>Address: 29 Wolmarans Street or 206 Smit Street and surrounded by Harrison and Loveday Streets in Braamfontein Eskom Building 16</p> <p>Date and Time: 23 July 2024, at 11H00am</p>
BID DOCUMENTS DELIVERY ADDRESS	<p>THE HOUSING DEVELOPMENT AGENCY</p> <p>Reception Area</p> <p>04 Kikuyu Road</p> <p>Sunninghill</p> <p>2157</p>
BIDDER NAME	
BID RETURN ADDRESS	<p>THE HOUSING DEVELOPMENT AGENCY</p> <p>04 Kikuyu Road</p> <p>Sunninghill</p> <p>2157</p>



Disclaimer

This document is provided solely for the purpose set out in this RFP and is not intended to form any part or basis of any investment decision by Bidders. The recipient should not consider the document as an investment recommendation by the HDA or any of its advisers.

Each person to whom this document (and other later documents) is made available must make his own independent assessment of the Project after making such investigation and taking such professional advice as he/she or it deems necessary. Neither the receipt of this document or any related document by any person, nor any information contained in the documents or distributed with them or previously or subsequently communicated to any Bidder or its advisers, is to be taken as constituting the giving of an investment advice by the Housing Development Agency or its advisers.

Whilst reasonable care has been taken in preparing this RFP and other documents, they do not purport to be comprehensive or true and correct. Neither the HDA nor any of its advisers accept any liability or responsibility for the adequacy, accuracy or completeness of any of the information or opinions stated in any document.

They acquaint themselves with this RFP and take note that no representation or warranty, express or implied, is or will be given by the HDA, or any of its officers, employees, servants, agents or advisers with respect to the information or opinions contained in any document or on which any document is based. Any liability in respect of such representations or warranties, howsoever arising is hereby expressly disclaimed.

If any recipient, or its employees, advisers or agents make or offers to make any gift to any of the employees of the HDA or consultant to the HDA on the RFP either directly or through an intermediary then such recipient, Bidder will be disqualified forthwith from participating in the RFP.

Each recipient of this RFP agrees to keep confidential any information of a confidential nature which may be contained in the information provided (the "Confidential Information Provided"). The Confidential Information provided may be made available to Bidder's subcontractors, employees and professional advisers who are directly involved in the appraisal of such information (who must be made aware of the obligation of confidentiality) but shall not, either in the whole or in part, be copied, reproduced, distributed or otherwise made available to any other party in any circumstances without the prior written consent of the HDA, nor may it be used for any other purpose than that for which it is intended.

These requirements do not apply to any information, which is or becomes publicly available or is shown to have been made available (otherwise than through a breach of a confidentiality obligation). Bidders, Key Contractors and their constituent members, agents and advisers, may be required to sign confidentiality contracts/undertakings (in such form as the HDA may require from time to time).



All Confidential Information Provided (including all copies thereof) remains the property of the HDA and must be delivered to the HDA on demand. Further, by receiving this RFP each Bidder and each of its members agrees to maintain its submission in Bid to this RFP confidential from third parties other than the HDA and its officials, officers and advisers who are required to review the same for the purpose of procurement of the RFP.

Any recipient residing outside the Republic of South Africa is urged to familiarise themselves with and to observe any regulatory requirements relevant to the proposed transaction (whether these derive from a regulatory authority within or outside the Republic of South Africa).

Any requirement set out in this RFP regarding the content of a response to the RFP is stipulated for the sole benefit of the HDA, and serves as expressly stated to the contrary, may be waived at its discretion at any stage in the procurement process.

The HDA is not committed to any course of action as a result of its issuance of this RFP and/or its receipt of a Proposal in response to it. Please note that the HDA reserves the right to:

- Modify the RFP's goods / service(s) / works and request Bidders to re-bid on any changes;
- Withdraw, amend the RFP at any time without prior notice and liability to compensate or reimburse any bidder;
- Reject any Proposal which does not conform to instructions and specifications which are detailed herein
- Disqualify Proposals submitted after the stated submission deadline;
- Call a bidder to provide additional documents which the HDA may require which have not been submitted to The HDA.
- Not necessarily accept the lowest priced Proposal or alternative bid;
- Not accept any response to the RFP or appoint a final bidder;
- Reject all proposals if it so decides;
- Withdraw the RFP on good cause shown;
- Award a contract in connection with this Proposal at any time after the RFP's closing date;
- Award a contract for only a portion of the proposed goods/ service/s/ works which are reflected in the scope of this RFP;
- The HDA may split the award of the contract between more than one Service Provider should it be more advantageous in terms of, amongst others, cost or development considerations;
- Make no award at all;



- Validate any information submitted by Bidders in response to this bid. This would include, but is not limited to, requesting the Bidders to provide supporting evidence. By submitting a bid, Bidders hereby irrevocably grant the necessary consent to the HDA to do so;
- Request annual financial statements prepared and signed off by a professional accountant or other documentation for the purposes of a due diligence exercise; and/or
- Not accept any changes or purported changes by the Bidder to the bid rates after the closing date and/or after the award of the business, unless the contract specifically provided for it.

All costs and expenses incurred by Bidders in submitting responses to this RFP shall be borne by the Bidders and the HDA shall not be liable for any costs or expenses whatsoever or any claim for reimbursement of such costs or expenses.

Should a contract be awarded on the strength of information furnished by the Bidder, which after conclusion of the contract, is proved to have been incorrect, the HDA reserves the right to cancel the contract and/or place the Bidder on the HDA's list of Restricted Suppliers.

The HDA reserves the right to negotiate market-related price with the bidder scoring the highest points or cancel the bid; if the bidder does not agree to a market related price, negotiate a market related price with the bidder scoring the second highest points or cancel the bid; if the bidder scoring the second highest points does not agree to a market related price, negotiate a market related price with the bidder scoring the third highest points or cancel the bid. If the market related price is not agreed as envisaged in this paragraph, the HDA will cancel the bid.

The HDA reserves the right to negotiations Best and Final Offer (BAFO) with selected Bidders where none of the Proposals meet RFP requirement, are affordable and demonstrate value for money and there is no clear preferred response to the RFP

Should the preferred bidder fail to sign or commence with the contract within a reasonable period after being requested to do so, the HDA reserves the right to award the business to the next ranked bidder, provided that he/she is still prepared to provide the required goods at the quoted price. Under such circumstances, the validity of the bids of the next ranked bidder(s) will be deemed to remain valid, irrespective of whether the next ranked bidder(s) were issued with a Letter of Regret. Bidders may therefore be requested to advise whether they would still be prepared to provide the required goods at their quoted price, even after they have been issued with a Letter of Regret.

The HDA will not reimburse any Bidder for any preparatory costs or other work performed in connection with its Proposal, whether or not the Bidder is awarded a contract.

SCHEDULE OF BID DOCUMENTS

SECTION NO	PAGE
SECTION 1 : NOTICE TO BIDDERS	
<u>1 INVITATION TO BID</u>	13
<u>2 FORMAL BRIEFING</u>	14
<u>3 BRIEFING SESSION MINUTES AND NOTES</u>	14
<u>4 PROPOSAL SUBMISSION</u>	14
<u>5 DELIVERY INSTRUCTIONS FOR RFP</u>	15
<u>6 SPECIFIC GOALS</u>	15
<u>7 COMMUNICATION</u>	15
<u>8 CONFIDENTIALITY</u>	15
<u>9 INSTRUCTIONS FOR COMPLETING THE RFP</u>	16
<u>10 LEGAL COMPLIANCE</u>	18
<u>11 NATIONAL TREASURY'S CENTRAL SUPPLIER DATABASE</u>	18
<u>12 TAX COMPLIANCE</u>	19
<u>12 PROTECTION OF PERSONAL DATA</u>	19
<u>SECTION 2 : BACKGROUND, OVERVIEW AND SCOPE OF REQUIREMENTS</u>	20
<u>1 INTRODUCTION AND BACKGROUND</u>	20
<u>2 OVERVIEW</u>	22
<u>3 KEY OBJECTIVES OF THE RFP</u>	23
<u>4 SCOPE OF WORK</u>	23
<u>5 EVALUATION METHODOLOGY</u>	23
<u>6 VALIDITY PERIOD</u>	29
<u>7 THE NATIONAL INDUSTRIAL PARTICIPATION PROGRAMME</u>	29
<u>8 POST TENDER NEGOTIATION (IF APPLICABLE)</u>	29
<u>9 BEST AND FINAL OFFER</u>	29
<u>10 FINAL CONTRACT AWARD</u>	29
<u>11 FAIRNESS AND TRANSPARENCY</u>	30



<u>SECTION 3 : PRICING AND DELIVERY SCHEDULE</u>	31
<u>1 PRICING</u>	32
<u>2 DISCLOSURE OF PRICES QUOTED</u>	32
<u>3 OWNERSHIP OF DESIGN</u>	32
<u>4 SERVICE LEVELS</u>	32
<u>5 TOTAL COST OF OWNERSHIP</u>	32
<u>6 FINANCIAL STABILITY</u>	33
<u>7 VALIDITY OF RETURNABLE DOCUMENTS</u>	34
<u>8 CERTIFICATE OF ACQUAINTANCE WITH RFP TERMS AND CONDITIONS</u>	35
<u>9 GENERAL CONDITIONS</u>	36
<u>10 CONDITIONS OF TENDER</u>	42



LIST OF APPENDICES

INVITATION TO BID	SBD 1
DECLARATION OF INTERESTS	SBD 4
PREFERENCE POINTS CLAIM FORM	SBD 6.1
GCC	



1 LIST OF ANNEXURES

Detailed Scope of Work (Project Specification)

Annexure 1

Pricing Schedule

Annexure 2



2 ACRONYMS

BBBEE	Broad Based-Black Economic Empowerment
CIDB	Construction Industry Development Board
DTiC	The Department of Trade and Industry and Competition
PPPFA	Preferential Procurement Policy Framework Act 5 of 2000 (as amended from time to time)
PFMA	Public Finance Management Act No.1 of 1999 (as amended from time to time)
The HDA	The Housing Development Agency
RFP	Request for Proposal
SANAS	South African National Accreditation System

3 INTERPRETATION

In this RFP, unless inconsistent with or otherwise indicated by the context –

- 3.1 headings have been inserted for convenience only and should not be taken into account in interpreting the RFP;
- 3.2 any reference to one gender shall include the other gender;
- 3.3 words in the singular shall include the plural and vice versa;
- 3.4 any reference to natural persons shall include legal persons and vice versa;
- 3.5 words defined in a specific clause have the same meaning in all other clauses of the RFP, unless the contrary is specifically indicated;
- 3.6 any reference to the RFP, schedule or appendix, shall be construed as including a reference to any RFP, schedule or appendix amending or substituting that RFP, schedule or appendix;
- 3.7 the schedules, appendices and Briefing Notes issued pursuant to this RFP, form an indivisible part of the RFP and together with further clarifying and amending information provided by the HDA, constitute the body of RFP documentation which must be complied with by Bidders;
- 3.8 in the event of any inconsistency between this RFP or other earlier information published with regard to the Project, the information in this RFP shall prevail; and
- 3.9 this RFP shall be governed by and applied in accordance with South African law.

4 DEFINITIONS

In this RFP and in any other project documents (as defined below) which so provides, the following words and expressions shall have the meaning assigned to them below and cognate expressions shall have a corresponding meaning, unless inconsistent with the context:

- 4.1 “Accounting Authority” means the Board of the HDA;
- 4.2 “Contract” means the Contract to be entered between the HDA and the successful Bidder for the provision of the *services* procured in this RFP.
- 4.3 “Bid” means the Bid to the RFP submitted by Bidders;
- 4.4 “Bidders Briefing Session” means the compulsory or non-compulsory briefing session to be held at the offices of the HDA or at a venue that will be arranged by the HDA, in order to brief the Bidders about this tender;
- 4.5 “Black Enterprise” means an enterprise that is at least 51% beneficially owned by Black People and in which Black People have substantial Management Control. Such beneficial ownership may be held directly or through other Black Enterprises;
- 4.6 “Black Equity” means the voting equity held by Black People from time to time;
- 4.7 “Black People” means African, Coloured, and Indian South African citizens, and “Black Person” means any such citizen ;
- 4.8 “Black Woman” means African, Coloured, and Indian South Africa Female citizen;
- 4.9 “Briefing Note” means any correspondence to Bidders issued by the HDA;
- 4.10 “Business Day” means any day except a Saturday, Sunday or public holiday in South Africa;
- 4.11 “Bidders” means individuals, organisations or consortia that have been submitted responses to the RFP in respect of the tender;
- 4.12 “Consortium” means any group of persons or firms jointly submitting a Bid as Bid to this RFP and “Consortia” means more than one Consortium;
- 4.13 “Contractor” the successful Bidders who has signed a Contract with the HDA in terms of this RFP.
- 4.14 “Closing Date” means the closing date for submission of bids
- 4.15 “Project” means this project for the **Appointment of a Professional Resource Team to provide Hands-on Multi-Disciplinary Technical Delivery Capacity Support for the Refurbishment of the existing former Eskom Office Building into a Pilot Social Housing Project by the HDA in Braamfontein Johannesburg.**
- 4.16 “RFP” means the Request for Proposals issued by the HDA for this tender; and
- 4.17 “Scope of Work” means the scope of work for this project as detailed out in the RFP technical specifications.

SECTION 1

NOTICE TO BIDDERS

1 INVITATION TO BID

You are hereby invited to submit a bid to meet the requirements of the Housing Development Agency. Responses to this RFP [hereinafter referred to as a **Bid** or a **Proposal**] are requested from persons, companies, close corporations, or enterprises [hereinafter referred to as an **entity, Bidder**].

BID DESCRIPTION	The Appointment of a Professional Resource Team to provide Hands-on Multi-Disciplinary Technical Delivery Capacity Support for the Refurbishment of the existing former Eskom Office Building into a Pilot Social Housing Project by the HDA in Braamfontein Johannesburg.
BID ADVERT	This RFP may be downloaded directly from National Treasury's e-Tender Publication Portal at www.etenders.gov.za or the HDA website at www.thehda.co.za/procurement/currenttenders free of charge. With effect from 12 July 2024
ISSUE DATE	12 July 2024
COMPULSORY BRIEFING SESSION	Yes Address: no.29 Wolmarans Street or 206 Smit Street and surrounded by Harrison and Loveday Streets in Braamfontein Eskom Building Date and Time: 23 July 2024, at 11H00am
CLOSING DATE	11H00am on 05 August 2024 Bidders must ensure that bids are delivered timeously to the correct address. As a general rule, if a bid is late or delivered to the incorrect address, it will not be accepted for consideration.
VALIDITY PERIOD	120 Business Days from Closing Date

	Bidders are to note that they may be requested to extend the validity period of their bid, at the same terms and conditions, if the internal evaluation process has not been finalised within the validity period.
CLOSING DATE FOR QUESTIONS	29 July 2024
CLOSING DATE FOR QUESTIONS RESPONSES	31 July 2024
CONTACT PERSON	Mxolisi Zondo

Any additional information or clarification will be emailed to all Bidders, if necessary.

2. FORMAL BRIEFING

2.1. A **compulsory** pre-proposal RFP briefing will be conducted at **no.29 Wolmarans Street or 206 Smit Street and surrounded by Harrison and Loveday Streets in Braamfontein Eskom Building** on the **23 July 2024**, at **11H00am** [Bidders to provide own transportation and accommodation]. The briefing session will start punctually, and information will not be repeated for the benefit of Bidders arriving late.

2.2 **idders failing to attend the compulsory RFP briefing will be disqualified.**

3. BRIEFING SESSION MINUTES AND NOTES

- 3.1. The HDA will issue briefing session minutes or notes together with the response to the clarification questions within seven (7) days from the date of the briefing session.
- 3.2 Clarifications will be issued to all Bidders to this RFP utilizing the contact details provided at receipt of the responses to the RFP documentation, after submission to the authorised representative.
- 3.3 Bidders / Bidders are requested to promptly confirm receipt of any clarifications sent to them.
- 3.4 Bidders / Bidders must ensure responses to the clarifications are received on or before the deadline date stated.

4. PROPOSAL SUBMISSION OF RFP RESPONSE

Proposal Responses must be submitted to the HDA in a sealed envelope/package addressed as follows:

Attention: SCM Office



RFP No:	HDA/HO/2024/021
Description of Bid	The Appointment of a Professional Resource Team to provide Hands-on Multi-Disciplinary Technical Delivery Capacity Support for the Refurbishment of the existing former Eskom Office Building into a Pilot Social Housing Project by the HDA in Braamfontein Johannesburg.
Closing date and time:	05 August 2024 at 11h00
Closing address	Housing Development Agency Head Office, 4 Kikuyu Road, Sunninghill

5. DELIVERY INSTRUCTION FOR RFP

Delivery of Bid

The Bid envelopes/packages must be deposited in the HDA tender box which is located at the HDA and must be addressed as follows:

The Housing Development Agency
4 Kikuyu Road
Sunninghill

6. SPECIFIC GOALS

As explained in more detail in the attached SBD 6.1 (Specific Goals Preference Points Claim Form) and as prescribed in terms of the Preferential Procurement Policy Framework Act (PPPFA), Act 5 of 2000 and its Regulations, Bidders are to note that the HDA will award “Specific Goals points” to companies who provide valid proof of their status as requested in the bid document.

6.1. SPECIFIC GOALS FOR JOINT VENTURES OR CONSORTIUMS

Bidders who would wish to respond to this RFP as a Joint Venture [**JV**] or consortium, must state their intention to do so in their RFP submission. Such Bidders must also submit a signed JV or consortium agreement between the parties clearly stating the percentage [%] split of business and the associated responsibilities of each party.

Bidders are to note the requirements for specific goals compliance of JVs or consortiums as required by SBD 6.1 [the specific goals Preference Point Claim Form] and submit it together with proof of their consolidated specific goals as stipulated in the Claim Form in order to obtain preference points.



7. COMMUNICATION

For specific queries relating to this RFP during the RFP process, bidders are required to adhere strictly to the communication structure requirements. Queries should be submitted to Mxolisi.Zondo@thehda.co.za on or before **16h30pm on 29 July 2024**

7.1. In the interest of fairness and transparency the HDA's response to such a query will be made available to the Bidders on the National Treasury E-Tender portal and the HDA's Website.

7.2 After the closing date of the RFP, a Bidder may only communicate in writing with the SCM Official, at Mxolisi.Zondo@thehda.co.za on any matter relating to its RFP Proposal.

7.3 Bidders are to note that changes to its submission will not be considered after the closing date.

7.4 Bidders are warned that a response will be liable for disqualification should any attempt be made by a Bidder either directly or indirectly to canvass any officer(s) or employee of the HDA in respect of this RFP between the closing date and the date of the award of the business. Furthermore, Bidders found to be in collusion with one another will automatically be disqualified and restricted from doing business with the HDA in future.

8. CONFIDENTIALITY

8.1. The HDA shall ensure all information related to this RFP is to be treated with strict confidence. In this regard Bidder / Bidders are required to certify that they have acquainted themselves with the Non-Disclosure Agreement. All information related to a subsequent contract, both during and after completion thereof, will be treated with strict confidence. Should the need however arise to divulge any information gleaned from provision of the Services , which is either directly or indirectly related to the HDA's business, written approval to divulge such information must be obtained from the HDA.

8.2 Bidders must clearly indicate whether any information submitted or requested from the HDA is confidential or should be treated confidentially by the HDA. In the absence of any such clear indication in writing, the HDA shall deem the response to the RFP to have waived any right to confidentiality and treat such information as public in nature.

9. INSTRUCTIONS FOR COMPLETING THE RFP

9.1. All responses to the RFP must be submitted in two sealed envelopes/boxes; the first envelop/box shall have the technical, compliance and specific goals response and the second envelop/box shall only have the financial response. Bidders must ensure that they do not indicate any financial information in the first envelop/box. the HDA may disqualify Bidders who fail to adhere to this requirement.



9.2 Bidders are required to package their response/Bid as follows to avoid disqualification:

Volume 1 (Envelop 1/Package 1)

- **Part A:** Compliance Response
- **Part B:** Technical or Functional Response (response to scope of work)

Volume 2 (Envelop 2/ Package 2)

- **Part C:** Financial Proposal and specific goals (SBD6.1)

Volume 2 Has to be submitted in a separate sealed envelope/package. Bidders must make their pricing offer in envelop 2/package 2, **NO PRICING AND PRICING RELATED INFORMATION SHOULD BE INCLUDED IN THE VOLUME 1 ENVELOP/PACKAGE 1.**

- 9.3 Bidders must submit 1 original response, and electronic version which must be contained in USB clearly marked in the Bidders name.
- 9.4 Bidders must ensure that their response to the RFP is in accordance with the structure of this document.
- 9.5 Where Bidders are required to sign forms they are required to do so using a black ink pen.
- 9.6 Any documents forming part of the original responses to RFP but which are not original in nature, must be certified as a true copy by a Commissioner of Oaths.
- 9.7 Each response to RFP must be in English and submitted in A4 format, except other graphic illustrations, which may not exceed A3 format, unless the contrary is specifically allowed for in this RFP. Responses to RFP must be neatly and functionally bound, preferably according to their different sections.
- 9.8 The original responses to RFP must be signed by a person duly authorized by each consortium member and Subcontractor to sign on their behalf, which authorization must form part of the responses to RFP as proof of authorization. By signing the responses to RFP the signatory warrants that all information supplied by it in its responses to RFP is true and correct and that the responses to RFP and each party whom the responses to RFP signatory represents, considers themselves subject to and bound by the terms and conditions of this RFP.
- 9.9 The responses to RFP formulation must be clear and concise and follow a clear methodology which responses to RFP must explain upfront in a concise Executive Summary and follow throughout the responses to RFP.
- 9.10 Responses to RFP must provide sufficient information and detail in order to enable the HDA to evaluate the responses to RFP, but should not provide unnecessary detail which does not add value and detracts from the ability of the HDA to effectively evaluate and understand the responses to RFP. The use of numbered headings, bullet points, sections, appendices and schedules are encouraged.



- 9.11 Information submitted as part of a responses to RFP must as far as possible, be ordered according to the order of the required information requested by the HDA. All pages must be consecutively numbered.
- 9.12 Responses to RFP must ensure that each requirement contained in the RFP is succinctly addressed. Responses to RFP should as far as possible use the terms and definitions applied in this RFP and should clearly indicate its interpretation of any differing terminology applied.
- 9.13 Response to RFP documents are to be submitted to the address specified in paragraph 3 above, and Bidders must ensure that the original and copies (where applicable) are identical in all respects as the HDA will not accept any liability for having disqualified a bidder for failing to provide a mandatory returnable document.
- 9.14 Unless otherwise expressly stated, all Proposals furnished pursuant to this RFP shall be deemed to be offers. Any exceptions to this statement must be clearly and specifically indicated.

10. LEGAL COMPLIANCE

Bidders must ensure that they comply with all the requirements of the RFP and if Bidders fail to submit any of the required documents, such Bids shall, at the sole discretion of the HDA, be disqualified the Bidder. The HDA reserves the right to call a Bidder to provide additional documents which the HDA may require from a Bidder which have not been submitted to the HDA.

Bidders must ensure that they comply with all the requirements of the RFP and if Bidders fail to submit any of the required documents, such Bids shall, at the sole discretion of the HDA, be disqualified.

The successful Bidder [hereinafter referred to as the **Service Provider**] shall be in full and complete compliance with any and all applicable laws and regulations.

11. NATIONAL TREASURY'S CENTRAL SUPPLIER DATABASE

Bidders are required to self-register on National Treasury's Central Supplier Database (CSD) which has been established to centrally administer supplier information for all organs of state and facilitate the verification of certain key supplier information. Only foreign suppliers with no local registered entity need not register on the CSD. The CSD can be accessed at <https://secure.csd.gov.za>. Bidders are required to provide the following to the HDA in order to enable it to verify information on the CSD:

Supplier Number: _____ **Unique registration reference number:** _____



12. TAX COMPLIANCE

Bidders must be compliant when submitting a proposal to the HDA and remain compliant for the entire contract term with all applicable tax legislation, including but not limited to the Income Tax Act, 1962 (Act No. 58 of 1962) and Value Added Tax Act, 1991 (Act No. 89 of 1991).

It is a condition of this RFP that the tax matters of the successful bidder be in order

The Tax Compliance status requirements are also applicable to foreign Bidders/ individuals who wish to submit bids.

Bidders are required to be registered on the CSD as indicated in paragraph 9 and the National Treasury shall verify the Bidder's tax compliance status through the CSD.

Where Consortia / Joint Ventures / Sub-contractors are involved, each party must be registered on the CSD and their tax compliance status will be verified through the CSD.

For this purpose, the attached SBD 1 must be completed and submitted as an essential returnable document by the closing date and time of the bid.

New Tax Compliance Status (TCS) System

SARS has implemented a new Tax Compliance Status (TCS) system in terms of which a taxpayer is now able to authorise any 3rd party to verify its compliance status in one of two ways: either through the use of an electronic access PIN, or through the use of a Tax Clearance Certificate obtained from the new TCS system.

Bidders are required to provide the following to the HDA in order to enable it to verify their tax compliance status:

Tax Compliance Status (TCS) Pin: _____

13. PROTECTION OF PERSONAL DATA

In responding to this bid, the HDA acknowledges that it may obtain and have access to personal data of the Bidders. the HDA agrees that it shall only process the information disclosed by Bidders in their response to this bid for the purpose of evaluating and subsequent award of business and in accordance with any applicable law. Furthermore, the HDA will not otherwise modify, amend or alter any personal data submitted by Bidders or disclose or permit the disclosure of any personal data to any Third Party without the prior written consent from the Bidders. Similarly, the HDA requires Bidders to process any personal information disclosed by the HDA in the bidding process in the same manner.



SECTION 2

BACKGROUND OVERVIEW AND SCOPE REQUIREMENTS

1 INTRODUCTION AND BACKGROUND

The Housing Development Agency (HDA) is a national public sector development agency that inter alia has the mandate to identify, acquire, prepare, and develop suitable land for human settlements. The HDA also undertakes the programme and project management for development of housing and human settlements. The HDA carries out its functions in partnership with a range of stakeholders including national, provincial and local government and municipalities, as well as with communities, developers and financiers. Established in 2009, the HDA was established by an Act of Parliament in 2008 and is accountable through its Board to the Minister of Human Settlements. For more information about the HDA, please visit our website: www.thehda.co.za.

The housing vision is the establishment of viable, socially and economically integrated communities, situated in areas allowing convenient access to economic opportunities, as well as to health, educational and social amenities in which all South Africans will, on a progressive basis, have access to:

- a) Permanent residential structures with secure tenure ensuring internal and external privacy and providing adequate protection against the elements; and
- b) Potable water, adequate sanitary facilities and domestic energy supply.

The housing vision is underpinned by principles of sustainability, viability, integration, equality, reconstruction, holistic development and good governance. South Africa's housing policy and strategy must contribute to a non-racial, non-sexist, democratic integrated society. The goal is to improve the quality of living of all South Africans with an emphasis on the poor and those who cannot independently satisfy their basic housing needs.

In July 2014 the National Minister of Human Settlements pronounced that the Ministry wants to see the HDA transforming itself into fully-fledged public sector developer. She specifically stated that: "The Housing Development Agency (HDA) will become a fully-fledged development agency, whose job is not only to acquire and prepare land, but to be developer and project manager to assist municipalities and any other sphere that might need support. They must drive rapid housing delivery."

As part of the mandate, the HDA has acquired the former Eskom office building in Braamfontein as a pilot project to be converted into the social housing project. This initiative will address the housing needs of Gauteng residents as reported by National Housing Needs Register (NHNR) in 2019, that there about 1 191 751 households registered for adequate housing.

1.1 Social Housing target for MTSF 2020 - 2024

The Department of Human Settlements aimed to deliver affordable rental units in strategically located areas. Social housing projects are meant to assist low and middle-income households that earn above the qualifying threshold to receive state-subsidised housing but below the qualifying threshold to secure a home loan. The **figure 1** below depicts social and financial programmes of the Department of Human Settlements.

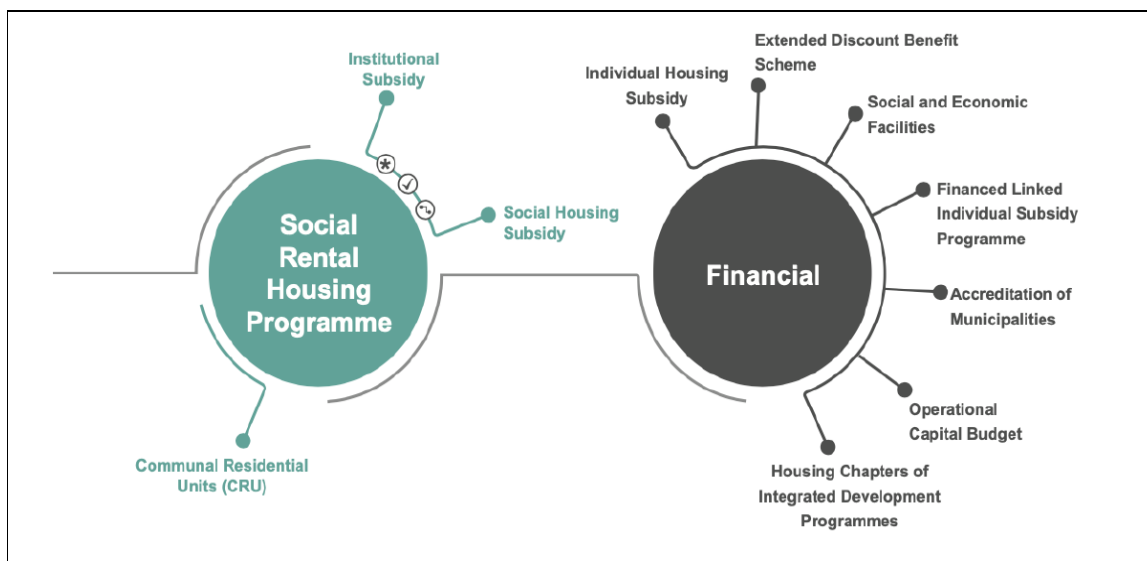


Figure 1: Source: HDA – SOP for Project Management

1.2 purpose

The Housing Development Agency is to appoint a suitably qualified and experienced multi-disciplinary Professional Resource Teams to undertake detailed building assessments, planning, design, procurement documentation, implementation and close-out for the development of estimated 591 Social Housing Units in Braamfontein.

1.3 Project locality

The building is situated on Erf 4903 Braamfontein, within the City of Johannesburg Metropolitan municipality. The building access is on 206 Smit Street and within a kilometre radius from the Gautrain Park Station and Johannesburg Park Station.



Figure 2: Source: HDA – Braamfontein Development Plan

1.4 Project information

The HDA has conducted preliminary site inspections of the building and critical building conditions will be discussed below for further investigations by the service provider. The building has been vacant for a long period and the extent of damage/ risk is not quantifiable at this stage. No as-built drawings are available at this stage and clarity is required on the transformer distributors from Eskom located in one of the basements, and any legal implication associated with this servitude located in the building now owned by the HDA.

Basement condition

The water table is relatively high in the inner-city of Johannesburg. As of 02/02/2024, about 1,2m had built up in one of the basements and steadily reaching the mouth of the second basement ramp and the borehole is submerged in this basement. The groundwater seepage to the basement is compromising the integrity of the structure. This requires proper groundwater management techniques to be implemented and de-watering services to be done frequently. **Figure 3** below depicts the condition of the basement.

Roof Condition

The roof is waterproofed, but there are leaks on the building and during rainy season, the roof scuppers to drain the stormwater are not functioning causing damage to the roof slab, as result the soffit slab is showing signs of leaks. Figure 4 below depicted the conditions of the roof and soffit slab

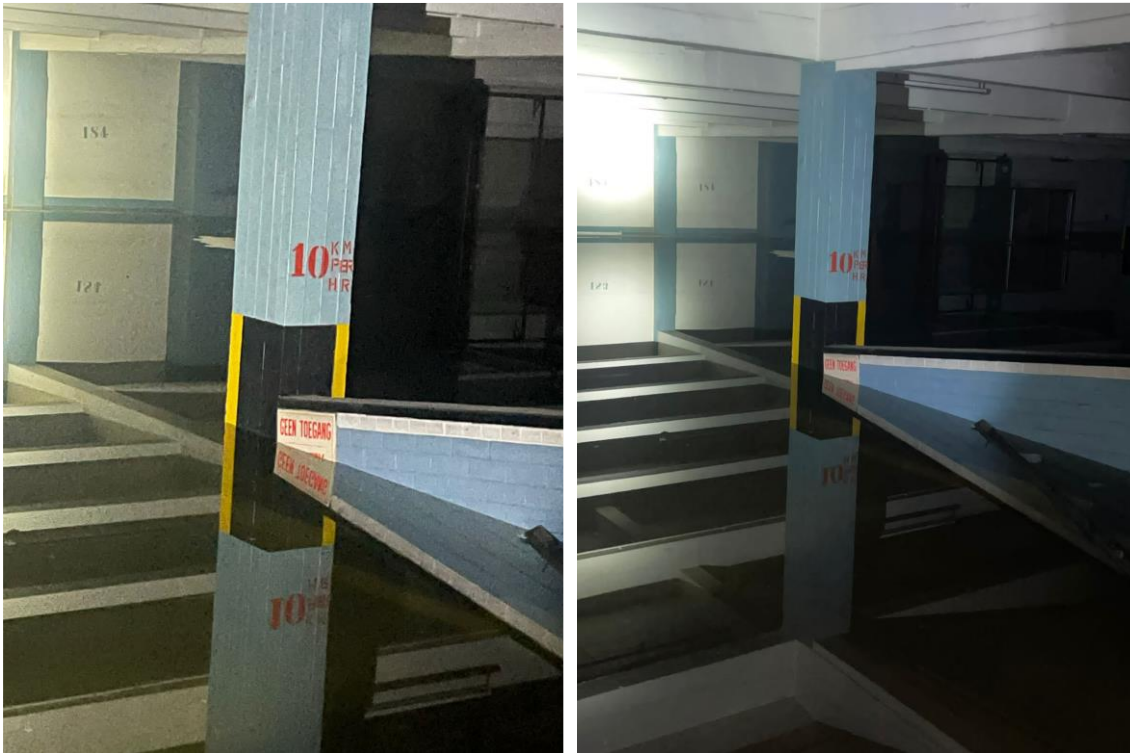




Figure 4: (Source: HDA – Soffit slab and roof condition)

Electrical and mechanical works

Electricity was supplied by both Eskom and CoJ in the building and since then all electrical cables including copper bars from Eskom have been stolen from the building resulting in the non-functioning of lifts, aircons, lights, pump systems etc. **Figure 5** below depicted the condition of electrical supply cable and water management supply equipment.



Figure 5: Source: HDA – electricity supply cable stolen.

1.5 Stakeholders to be consulted on the project

The **table 1** below depicts the stakeholders to be consulted during course of project. The PRT is to ensure that stakeholder identification is conducted at the initiation phase and all relevant stakeholders have been consulted and required inputs are provided on the project to avoid projects delays .

Entity	Role
HDA	Project Owner and sponsor
SHRA	(SHRA), which was established in terms of the Social Housing Act of 2008 and is mandated to regulate the social housing sector and subsidise affordable rental housing units for low-income to middle-income households.
CoJ	Local Authority is responsible for approval of all building control and planning related matters.
Department of Water and Sanitation & Johannesburg Water	The Department of Water Affairs (DWA) published a groundwater strategy in 2010. Johannesburg Water is responsible for the water quality.
Council of Geoscience	Supported projects in exploration groundwater projects within the inner city of Johannesburg.
Green Building Council of South Africa	Supports projects to be designed, built and operated in an environmentally sustainable manner.

Table 1: Initial Stakeholders Identified

1.6 Available information

The service provider should source all necessary documents deemed applicable in initiating the project. The HDA does not have any other documents except for the one's listed below.

- Title Deed
- Zoning certificate
- Municipal SDF which can be accessed on CoJ website
- Conditional assessment report

2 EVALUATION METHODOLOGY

The evaluation of Bids will be based on the information contained in Bids received in RFP and, which may be further supplemented by presentations and clarification information provided, if required. All Bids shall be equally evaluated and adjudicated by various committees involved in the evaluation process in accordance with stated Evaluation Criteria. Procurement integrity and fairness, transparency, competitiveness and full accountability will at all times be paramount.

2.1 EVALUATION AND SCORING METHODOLOGY

The evaluation of the Bids by the evaluation committee will be conducted at various stages.

The following stages will be applied in the evaluation:

STAGE	DESCRIPTION
Admin compliance (Stage 1)	The Bid is checked for completeness and whether all required documentation, certificates; verify completeness warranties and other Bid requirements and formalities have been complied with. The Bids are checked to verify that the essential RFP requirements have been met. Incomplete and Non-compliant Bids may be disqualified.
Technical Evaluation (Stage 2)	Detailed analysis of Bids to determine whether the Bidder is capable of delivering the Project in terms of business and technical requirements. The minimum threshold for technical evaluation is [70%], any bidder who fails to meet the minimum requirement will be disqualified and not proceed with the evaluation of Price and Specific goals.
Price and Specific goals (Stage 3)	Evaluate price and Specific Goals on an 80/20 point system
Bidder Verification (Stage 4)	Verification of information supplied by bidders when completing SBD 4
Recommendation	Report formulation and recommendation of Preferred Bidders
Best and Final Offer	The HDA may go into the Best and Final Offer process in the instance where no bid meets the requirements of the RFP and/or the Bids are to close in terms of points awarded.
Approval	Approval and notification of the final Bidder.

STAGE 1: COMPLIANCE REQUIREMENTS

Bidders must comply with the following requirements and failure to comply will lead to immediate disqualification.

Stage 1A- Mandatory Requirements

If you do not submit the following documents your tender will be automatically disqualified:

No.	DESCRIPTION OF REQUIREMENT	
a)	Proof of valid Professional Indemnity Insurance with twenty million rand (R20 000 000.00) per occasion for public liability insurance	
b)	Service provider/s to be registered with Consulting Engineering of South Africa (CESA)	
c)	Attendance of compulsory site briefing session	

Stage 1 Basic Compliance

If you do not submit the following basic compliance documents and should an award be made, these basic compliance documents must be made available within seven (7) days, failing which the award will be recalled.

No.	Description of requirement	
a)	Letter of Good Standing: COID	
b)	CSD Report	
c)	Completion of ALL RFP documentation (includes ALL declarations required)	
d)	Signed Joint Venture , Consortium Agreement or Partnering Agreement (<i>whichever is applicable</i>)	

STAGE 2: TECHNICAL / FUNCTIONALITY REQUIREMENTS

Interested bidders shall then be evaluated on functionality after meeting all compliance requirements outlined above. The minimum threshold for technical/functionality requirements is 70% as per the standard Evaluation Criteria presented as per the table above. Bidders who score below this minimum requirement shall not be considered for further evaluation in stage 3.

Summary of the technical / functional requirements are presented in table below:

Item	Criteria	Weight
1	Company Profile	5
2	Bidder's work experience	20
3	Team composition experience	55
5	Indicative programme	20
	TOTAL	100

TECHNICAL/FUNCTIONAL EVALUATION CRITERIA

Details of the scoring methodology presented above are outlined below:

CRITERIA	SUB-CRITERIA	WEIGHTING POINTS
Company Profile	<p>This section should cover the following documents:</p> <ul style="list-style-type: none"> • Corporate profile, minimum list of 5 high-rise projects with photographs, project organogram, including allocation for 3 HDA internship/support personnel (Architect, Civil Engineer, and Structural Engineer) (2.5 points) • Valid ISO 9001: Quality Management Certificate to be submitted by the bidder (2.5 points) 	5 points
Bidder's work experience	<p>The bidder to provide an appointment letter/contract and a completion letter (s) of high-rise development (minimum of 9-storey building or more from the ground level)</p> <p>Minimum project:</p> <ol style="list-style-type: none"> a) 5 projects (20 points) b) 3 – 4 projects (15 points) 	20 points

CRITERIA	SUB-CRITERIA	WEIGHTING POINTS
	<p>c) 2 - 1 projects (10 points)</p> <p>d) No projects (no point allocation)</p>	
<p>Team composition experience (Attach CV, qualification, registration certificate and letter of good standing)</p>	<p>Structural Engineer: Qualification: A BSc/B-Tech and/or master's degree in civil engineering (4 points)</p> <p>Valid Registration and letter of good standing to be submitted whereby validity cannot be ascertained on the certificate: ECSA (3 points) and iStructE (3 points)</p> <p>Completed projects:</p> <p>a) 4 - 5 completed projects of high-rise buildings - from 9 levels above ground level (5 points)</p> <p>b) 3 - 2 completed projects of high-rise buildings - from 9 levels above ground level (2 points)</p> <p>c) below 2 or no projects submitted or projects less than 9 storey building (0 points)</p>	<p>15 points</p>
	<p>Project Manager - Technical: Qualification: Bachelor of Science (Hons)/B-Tech in Construction Management (1 point)</p> <p>Valid Registration: SACPCMP- PrCM and a letter of good standing to be submitted whereby the validity cannot be ascertained on the certificate (2 points)</p> <p>Completed projects:</p>	

CRITERIA	SUB-CRITERIA	WEIGHTING POINTS
	<p>a) 4 - 5 completed projects of high-rise buildings - from 9 levels above ground level (5 points)</p> <p>b) 3 - 2 completed projects of high-rise buildings - from 9 levels above ground level (2 points)</p> <p>c) below 2 or no projects submitted or projects less than 9 storey building (0 points)</p>	
	<p>Architect: Qualification: Bachelor's degree in architectural science and/or master's degree in architectural studies (1 point) Valid Registration: SACAP and a letter of good standing to be submitted whereby the validity cannot be ascertained on the certificate (2 points) Completed projects:</p> <p>a) 4 - 5 completed projects of high-rise buildings - from 9 levels above ground level (5 points)</p> <p>b) 3 - 2 completed projects of high-rise buildings - from 9 levels above ground level (2 points)</p> <p>c) below 2 or no projects submitted or projects less than 9 storey building (0 points)</p>	8 points
	<p>Civil Engineer Qualification: Bachelor's degree in civil engineering / B-Tech in Civil Engineering specializing in Water Engineering/Management (1 point)</p>	8 points

CRITERIA	SUB-CRITERIA	WEIGHTING POINTS
	<p>Valid Registration: ECSA certificate and letter of good standing to be submitted- (2 points)</p> <p>Completed projects:</p> <ul style="list-style-type: none"> a) 4 - 5 completed projects of high-rise buildings - from 9 levels above ground level (5 points) b) 3 - 2 completed projects of high-rise buildings - from 9 levels above ground level (2 points) c) below 2 or no projects submitted or projects less than 9 storey building (0 points) 	
	<p>Electrical Engineer</p> <p>Qualification: Bachelor's degree in electrical engineering / B-Tech in Electrical Engineering specializing in heavy current. (1 Point)</p> <p>Valid Registration: ECSA certificate and letter of good standing to be submitted- (2 points)</p> <p>Completed projects:</p> <ul style="list-style-type: none"> a) 4 - 5 completed projects of high-rise buildings - from 9 levels above ground level (5 points) b) 3 - 2 completed projects of high-rise buildings - from 9 levels above ground level (2 points) c) below 2 or no projects submitted or projects less than 9 storey building (0 points) 	<p>8 points</p>

CRITERIA	SUB-CRITERIA	WEIGHTING POINTS
	<p>Mechanical Engineer</p> <p>Qualification: Bachelor's degree in mechanical engineering (1 point)</p> <p>Valid Registration: ECSA certificate and letter of good standing to be submitted- (2 points)</p> <p>Completed projects:</p> <ul style="list-style-type: none"> a) 4 - 5 completed projects of high-rise buildings - from 9 levels above ground level (5 points) b) 3 - 2 completed projects of high-rise buildings - from 9 levels above ground level (2 points) c) below 2 or no projects submitted or projects less than 9 storey building (0 points) 	8 points
Indicative programme	<p>The bidder must supply a detailed project execution methodology. This must include:</p> <ul style="list-style-type: none"> • A statement on how the service provider understands the requirements of this assignment; • An indicative plan of the service provider's approach, referring to the assignment milestones, resources distribution and timeframe; • A clear statement of available expertise and capacity to match the requirements of this assignment; and • An indication of any innovative approaches and 'value-added' initiatives that the service provider may think appropriate. 	20 points



CRITERIA	SUB-CRITERIA	WEIGHTING POINTS
	<p>POINTS ALLOCATION (20 Points)</p> <ul style="list-style-type: none"> • Bidder has submitted inadequate or no information to determine allocated points 0 Points • Bidder has submitted a clear statement on how the service provider understands the requirements of this assignment 5 Points • Bidder has an indicative plan of the service provider’s approach, referring to the assignment milestones, resources distribution and timeframe; 5 Points • Bidder has submitted a clear statement of available expertise and capacity to match the requirements of this assignment; and 5 Points • Bidder has submitted an indication of any innovative approaches and ‘value-added’ initiatives that the service provider may think appropriate. 5 Points 	



STAGE 3: PRICING AND SPECIFIC GOALS

The following criteria will be used for points allocation for price and Specific Goals compliance on a 80/20 point system:

Price and Specific Goals

CRITERIA	WEIGHTING/ POINTS
Price	80
Specific goal	20
Total	100

Price

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

Where

PS = Points scored for price of tender under consideration

Pt = Rand value of offer tender consideration

Pmin = Rand value of lowest acceptable tender

Specific Goals Evaluation:

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

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

(Note to organs of state: 80/20 preference point system is applicable, corresponding points must also be indicated as such.)

The Specific Goals allocated points in terms of this tender	Number of Points	Proof / Documentation required to Claim Points for Specific Goals
Size of Company (Maximum points = 7 points)		
• EME	7	CSD and Sworn Affidavit
• QSE	5	CSD and Sworn Affidavit
• GE or others	3	Letter from Auditors or Authorised person confirming annual turn over

The Specific Goals allocated points in terms of this tender	Number of Points	Proof / Documentation required to Claim Points for Specific Goals
<i>Black Women Owned (Maximum points = 5 points)</i>		
75% - 100%	5	CSD and Sworn Affidavit
51% - 74.99 -	3	CSD and Sworn Affidavit
Below 51%	1	CSD and Sworn Affidavit
<i>Historically Disadvantaged South Africans* (maximum Points = 8)</i>		
<i>Youth (Maximum points 3)</i>	3	CSD
<i>HDSA</i>	2	CSD and Sworn Affidavit
<i>Disabled People</i>	3	CSD and Sworn Affidavit

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

3 VALIDITY PERIOD

This RFP shall be valid for **[120 Business days]** calculated from Bid closing date.

4 THE NATIONAL INDUSTRIAL PARTICIPATION PROGRAMME

4.1 National Industrial Participation Programme (NIPP) requirements:

The National Industrial Participation (NIP) Programme, which is applicable to all government procurement contracts that have an imported content, became effective on the 1 September 1996. The NIP policy and guidelines were fully endorsed by Cabinet on 30 April 1997. In terms of the Cabinet decision, all state and parastatal purchases / lease contracts (for goods, works and services) entered into after this date, are subject to the NIP requirements. NIP is obligatory and therefore must be complied with. The Industrial Participation Secretariat (IPS) of the Department of Trade and Industry (DTI) is charged with the responsibility of administering the programme.

Bidders are therefore required to complete SBD 5 to give effect to the above.

5 POST TENDER NEGOTIATION (IF APPLICABLE)

The- HDA reserves the right to conduct post tender negotiations with a shortlist of Bidder(s). The shortlist could comprise of one or more Bidders. Should the HDA conduct post tender negotiations, Bidders will be requested to provide their best and final offers to the HDA based on such negotiations. A final evaluation will be conducted in terms of 80/20.



6 BEST AND FINAL OFFER

The HDA reserves the right to embark on the Best and Final Offer (BAFO) Process where:

- a) None of the proposals meet the RFP requirements;
- b) None of the responses to RFP are affordable and demonstrate value for money; and

Upon the decision by the HDA to embark on a BAFO process it shall notify the response to RFP.

7 FINAL CONTRACT AWARD

The HDA may negotiate the final terms and conditions of the contract with the successful Bidder(s). Bidder

8 FAIRNESS AND TRANSPARENCY

The HDA views fairness and transparency during the RFP Process as an absolute on which the HDA will not compromise. The HDA will ensure that all members of evaluation committees declare any conflicting or undue interest in the process and provide confidentiality undertakings to the HDA.

The evaluation process will be tightly monitored and controlled by the HDA to assure integrity and transparency throughout, with all processes and decisions taken being approved and auditable.

SECTION 3

PRICING AND DELIVERY SCHEDULE

Bidders are required to complete the Pricing Schedule as per **Annexure: 2 (Volume 2 /Envelop 2)**

1 PRICING

- 1.1. Prices must be quoted in South African Rand, inclusive of VAT.
- 1.2. Price offer is firm and clearly indicate the basis thereof.
- 1.3. Pricing Bill of Quantity is completed in line with schedule if applicable.
- 1.4. Cost breakdown must be indicated.
- 1.5. Price escalation basis and formula must be indicated.
- 1.6. To facilitate like-for like comparison bidders must submit pricing strictly in accordance with this price schedule and not utilise a different format. Deviation from this pricing schedule could result in a bid being declared non-responsive.
- 1.7. Please note that should you have offered a discounted price(s), the HDA will only consider such price discount(s) in the final evaluation stage on an unconditional basis.
- 1.8. Bidders are to note that if price offered by the highest scoring bidder is not market related, the HDA may not award the contract to the Bidder. The HDA may:
 - 1.8.1 negotiate a market-related price with the Bidder scoring the highest points or cancel the RFP;
 - 1.8.2 if that Bidder does not agree to a market-related price, negotiate a market-related price with the Bidder scoring the second highest points or cancel the RFP; and
 - 1.8.3 if the Bidder scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the Bidder scoring the third highest points or cancel the RFP.
- 1.9 If a market-related price is not agreed with the Bidder scoring the third highest points, the HDA must cancel the RFP.

2 DISCLOSURE OF PRICES QUOTED

Bidders are to note that, on award of business, the HDA is required to publish the tendered prices and preferences claimed of the successful and unsuccessful Bidders inter alia on the National Treasury e-Tender Publication Portal, (www.etenders.gov.za), as required per National Treasury.

3 OWNERSHIP OF DESIGN

- 3.1 The plans and design developed and to be provided by the HDA shall at all times remain the property of the HDA.]



4 SERVICE LEVELS

- 4.1. An experienced national account representative(s) is required to work with the HDA's procurement department. [No sales representatives are needed for individual department or locations]. Additionally, there shall be a minimal number of people, fully informed and accountable for this agreement.
- 4.2. The HDA will have quarterly reviews with the Service provider's account representative on an on-going basis.
- 4.3. The HDA reserves the right to request that any member of the Service provider's team involved on the HDA account be replaced if deemed not to be adding value for the HDA.
- 4.4. The Service provider guarantees that it will achieve a 100% [hundred per cent] service level on the following measures:
 - 4.4.1. Random checks on compliance with quality/quantity/specifications
 - 4.4.2. On time delivery.
- 4.5. The Service provider must provide a telephone number for customer service calls.
- 4.6. Failure of the Service provider to comply with stated service level requirements will give the HDA the right to cancel the contract in whole, without penalty to the HDA, giving 30 [thirty] calendar days' notice to the Service provider of its intention to do so.

Acceptance of Service Levels:

YES	
-----	--

5 TOTAL COST OF OWNERSHIP (TCO)

- 5.1. The HDA will strive to procure goods, services and works which contribute to its mission. In order to achieve this, the HDA must be committed to working with suppliers who share its goals of continuous improvement in service, quality and reduction of Total Cost of Ownership (TCO).
- 5.2. Bidders shall indicate whether they would be committed, for the duration of any contract which may be awarded through this RFP process, to participate with the HDA in its continuous improvement initiatives to reduce the total cost of ownership [TCO], which will reduce the overall cost of services provided by the HDA.



6. VALIDITY OF RETURNABLE DOCUMENTS

The successful Bidder will be required to ensure the validity of all returnable documents, including but not limited to its Tax compliance on CSD, for the duration of any contract emanating from this RFP. Should the Bidder be awarded the contract [the Agreement] and fail to present the HDA with such renewals as and when they become due, the HDA shall be entitled, in addition to any other rights and remedies that it may have in terms of the eventual Agreement, to terminate such Agreement forthwith without any liability and without prejudice to any claims which the HDA may have for damages against the Bidder.

SIGNED at _____ on this _____ day of _____ 2024

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 _____

Name _____

2 _____

Name _____

SIGNATURE OF BIDDER'S AUTHORISED REPRESENTATIVE: _____

NAME: _____

DESIGNATION: _____



7. CERTIFICATE OF ACQUAINTANCE WITH RFP TERMS & CONDITIONS & APPLICABLE DOCUMENTS

By signing this certificate the Bidder is deemed to acknowledge that he/she has made himself/herself thoroughly familiar with, and agrees with all the conditions governing this RFP, including those contained in any printed form stated to form part hereof, including but not limited to the documents stated below and the HDA will recognise no claim for relief based on an allegation that the Bidder overlooked any such condition or failed properly to take it into account for the purpose of calculating tendered prices or any other purpose:

1. The HDA’s General Bid Conditions*
2. Standard RFP Terms and Conditions for the supply of Goods or Services or Works to The HDA

Should the Bidder find any terms or conditions stipulated in any of the relevant documents quoted in the RFP unacceptable, it should indicate which conditions are unacceptable and offer alternatives by written submission on its company letterhead, attached to its submitted Bid. Any such submission shall be subject to review by the HDA’s Legal department who shall determine whether the proposed alternative(s) are acceptable or otherwise, as the case may be. A material deviation from the Standard terms or conditions could result in disqualification.

Bidders accept that an obligation rests on them to clarify any uncertainties regarding any bid to which they intend to respond, before submitting the bid. The Bidder agrees that he/she will have no claim based on an allegation that any aspect of this RFP was unclear but in respect of which he/she failed to obtain clarity. The bidder understands that his/her Bid will be disqualified if this Certificate of Acquaintance with RFP documents included in the RFP as a returnable document, is found not to be true and complete in every respect.

SIGNED at _____ on this ____ day of _____ 2024

SIGNATURE OF WITNESSES

ADDRESS OF WITNESSES

1 _____

Name _____

SIGNATURE OF BIDDER’S AUTHORISED REPRESENTATIVE: _____

NAME: _____

DESIGNATION: _____



8. GENERAL CONDITIONS

8.1. THE HDA'S TENDER FORMS

Bidders must sign and complete the HDA's Bid Forms and attach all the required documents. Failure by Bidders to adhere to this requirement may lead to their disqualification.

8.2. PRECEDENT

In case of any conflict with this RFP and Bidders response, this RFP and its briefing notes shall take precedence.

8.3. RESPONSE TO RFP-CONFIDENTIALITY

Response to RFPs must clearly indicate whether any information conveyed to or requested from the HDA is confidential or should be treated confidentially by the HDA. In the absence of any such clear indication in writing from a response to RFP, the HDA shall deem the response to RFP to have waived any right to confidentiality and treat such information as public in nature.

Where a Bidder at any stage during the RFP Process indicates to the HDA that information or any response to RFP requested from the HDA is or should be treated confidentially, the HDA shall treat such information or response to RFP confidentially, unless the HDA believes that to ensure the transparency and competitiveness of the RFP Process the content of the information or response to RFP should be conveyed to all Bidders, in which event it shall apply the following process:

- The HDA shall confirm with the Bidder whether the raising of confidentiality applies to the entire response to the RFP or only specific elements or sections of the response;
- Where confidentiality is maintained by the Bidder and the HDA is of the opinion that the information or response to RFP if made publicly available would affect the commercial interests of the Bidder or is commercially sensitive information, the HDA shall not release such information to other Bidders if providing such information or response to the RFP would prejudice the competitiveness and transparency of the RFP Process;
- Where the HDA is of the opinion that information provided is not commercially sensitive or would have no impact on the commercial interests of the relevant Bidder if released and fairness and transparency requires that such information be released to all Bidders, the HDA may:



- i. inform the relevant Bidder of the necessity to release such information and/or response to RFP and request the Bidder to consent to the release thereof by the HDA; or
- ii. obtain legal advice regarding the confidentiality of the relevant information and/or response to RFP and the legal ability of the HDA to release such information; or
- iii. refrain from releasing the information and/or response to RFP, in which event the HDA shall not take account of the contents of such information in the evaluation of the relevant response to RFP.

The above procedures regarding confidentiality shall not apply to any information which is already public knowledge or available in the public domain or in the hands of the HDA or is required to be disclosed by any legal or regulatory requirements or order of any competent court, tribunal or forum.

8.4. RESPONSE TO THE RFP – RFP DISQUALIFICATION

Responses to RFP which do not comply with the RFP requirements, formalities, terms and conditions may be disqualified by the HDA from further participation in the RFP Process.

In particular (but without prejudice to the generality of the foregoing) the HDA may disqualify, at its sole discretion and without prejudice to any other remedy it may have, a Bidder where the Bidder, or any of its consortium/Joint venture members, subcontractors or advisors have committed any act of misrepresentation, bad faith or dishonest conduct in any of its dealings with or information provided to the HDA.

8.5. CORRUPTION, GIFTS AND PAYMENTS

Neither the Bidders to RFPs, its equity members, the sub-contractors, consortium members nor any of their agents, lenders or advisors shall directly or indirectly offer or give to any person in the employment of the HDA or any other Government official or any of the Advisory Team any gift or consideration of any kind as an inducement or reward for appointing a particular Bidder, or for showing or omitting to show favour or disfavour to any of the Bidders, its equity members or the sub-contractors in relation to the Project.

In the event that any of the prohibited practices contemplated under the above paragraph is committed, the HDA shall be entitled to terminate any Response to RFP's status and to prohibit such Bids to RFP,



its equity members, its Sub Contractors and their agents, lenders and advisors from participating in any further part of the procurement of the Project.

8.6. INSURANCE

Unless specifically provided for in this RFP or draft contracts, Bidders will be required to submit with their Bid for services professional indemnity insurance and works insurance to an extent (if any) if insurance provided by the HDA may not be for the full cover required in terms of the relevant category listed in this RFP. The Bidder is advised to seek qualified advice regarding insurance.

8.7. NO CONTACT POLICY

Bidders may only contact the supply chain official of the HDA as per the terms of the Communication Structure established by this RFP, except in the case of pre-existing commercial relationships, in which case contact may be maintained only with respect thereto and, in making such contact, no party may make reference to the Project or this RFP.

8.8. CONFLICT OF INTEREST

No Bidder member, subcontractor or advisor of the response to RFP may be a member of or in any other way participate or be involved, either directly or indirectly in more than one response to RFP or response to RFP during any stage of the Project procurement process, but excluding specialist suppliers of systems and equipment, non-core service providers or financial or commercial institutions whose role is limited purely to lending money or advancing credit to the response to RFP. Bidders are to sign the declaration of interest form. In order to prevent the conflict or potential conflict of interest between Lenders and Bidders to RFP, no advisors or the Contractor/s or Consortium/s to any response to RFP, consortium member or subcontractor may fulfil the role of arranger, underwriter and/or lead bank to the response to RFP. The HDA may disqualify the response to RFP from further participation in the event of a failure to comply with this provision. The HDA views the potential conflict of interest so great as to warrant the reduction of competition for advisory services.

8.9. COLLUSION AND CORRUPTION

Any Bidder shall, without prejudice to any other remedy available to the HDA, be disqualified, where the response to RFP –

- communicates to a person other than persons nominated by the HDA a material part of its response to RFP; or



- Enters into any Contract or arrangement with any other person or entity that it shall refrain from submitting a response to RFP to this RFP or as to any material part of its Response to RFP to this RFP (refer the prohibition contained in Section 4(1)(b)(iii) of the Competition Act 89 of 1998). . The Bidders represents that the Bidder has not, directly or indirectly, entered into any agreement, arrangement or understanding or any such like for the purpose of, with the intention to, enter into collusive Bidding or with reasonable appreciation that, collusive any agreement, arrangement or understanding or any such like may result in or have the effect of collusive Bidding. The Bidder undertakes that in the process of the Bid but prior to the HDA awarding the Bid to a preferred bidder become involved in or be aware of or do or caused to be done any agreement, arrangement or understanding or any such like for the purpose of or which may result in or have the effect of a collusive Bid, the Bidder will notify the HDA of such any agreement, arrangement or understanding or any such like.; or
- offers or agrees to pay or give any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done, or causing, or having caused to be done any act or omission in relation to the RFP Process or any proposed response to RFP (provided nothing contained in this paragraph shall prevent a response to RFP from paying any market-related commission or bonus to its employees or contractors within the agreed terms of their employment or contract).

8.10. CONSORTIUM CHANGES

If exceptional circumstances should arise in which after the submission of the bid and after closing date of submission of bids, there is change in the composition of the members of the consortium, either through substitution or omission of any member of the consortium for the purpose of this RFP:

- The Bidder to RFP must notify the HDA in writing of the proposed changes supported by complete details of the material reasons for the changes, the parties impacted by the changes and the impact on the response to RFP.
- The HDA shall evaluate the reasons advanced by the Bidder for the requested changes to the Bidder structure and where the HDA is not satisfied that the reasons advanced are reasonable or material, refuse to accept the change and disqualify the response to RFP, or notify the Bidder in writing of its non-acceptance of the changes and require the Bidder to propose a suitable alternative to the HDA within 10 (TEN) days of its receipt of the decision of the HDA, upon receipt of which the HDA shall -



- i. Evaluate the alternative proposed for suitability to the HDA, and where the alternative is accepted by the HDA, inform the Bidder in writing of such acceptance and the HDA shall reassess the response to RFP against the RFP requirements and criteria; or
- ii. Where the alternative is not accepted by the HDA, inform the Bidder in writing of such non-acceptance as well as its disqualification from the RFP Process.
- iii. Where the HDA is satisfied that the changes requested under (i) above are reasonable and material, the response to RFP, shall be allowed to effect the required changes and the HDA shall reassess the response to RFP against the RFP requirements and criteria.

8.11. COSTS OF RESPONSE TO THE RFP SUBMISSION

All costs and expenses associated with or incurred by the Bidder in relation to any stage of the Project, shall be borne by the Bidder. The HDA shall not be liable for any such costs or expenses or any claim for reimbursement of such costs or expenses.

To avoid doubt, the HDA shall not be liable for any samples submitted by the Bidder in support of their Responses to RFP and reserves the right not to return to them such samples and to dispose of them at its discretion.

8.12. RESPONSE TO THE RFP WARRANTY

Bidders must provide a warranty as part of their Responses to RFP that their Responses to RFP are true and correct in all respects, that it does not contain a misrepresentation of any kind and that the taxes of all members of the Bidder company, consortium members and or subcontractors are in order and none of the members are undergoing corruption or any criminal-related investigations or have any past convictions for fraud or corruption.

9. CONDITIONS OF TENDER

General

- | | | |
|---|---|--|
| Actions | 1 | The HDA's <i>Representative</i> and each <i>tenderer</i> submitting a tender shall act as stated in these Conditions of Tender and in a manner which is fair, equitable, transparent, competitive and cost-effective. |
| Interpretation | 2 | Terms shown in <i>italics</i> vary for each tender. The details of each term for this tender are identified in the Request for Tender / Scope of work/ specification. Terms shown in capital initials are defined terms in the appropriate conditions of contract. |
| | 3 | Any additional or amended requirements in the Scope of work/ specification, and additional requirements given in the Schedules in the <i>tender returnables</i> are deemed to be part of these Conditions of Tender. |
| | 4 | The Conditions of Tender and the Scope of work/ specification shall form part of any contract arising from this invitation to tender. |
| Communication | 5 | Each communication between the HDA and a <i>tenderer</i> shall be to or from the HDA's <i>Representative</i> only, and in a form that can be read, copied and recorded. Communication shall be in the English language. The HDA takes no responsibility for non-receipt of communications from or by a <i>tenderer</i> . |
| THE HDA's rights to accept or reject any tender | 6 | The HDA may accept or reject any variation, deviation, tender, or alternative tender, and may cancel the tender process and reject all tenders at any time prior to the formation of a contract. The HDA or the HDA's <i>Representative</i> will not accept or incur any liability to a <i>tenderer</i> for such cancellation and rejection, but will give reasons for the action. The HDA reserves the right to accept the whole or any part of any tender. |
| | 7 | After the cancellation of the tender process or the rejection of all tenders the HDA may abandon the proposed work and services, have it performed in any other manner, or re-issue a similar invitation to tender at any time. |

Tenderer's obligations

The *tenderer* shall comply with the following obligations when submitting a tender and shall:

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| Eligibility | 1 | Submit a tender only if the <i>tenderer</i> complies with the criteria stated in the Scope of work/ specification. |
| Cost of tendering | 2 | Accept that the HDA will not compensate the <i>tenderer</i> for any costs incurred in the preparation and submission of a tender. |
| Check documents | 3 | Check the <i>tender documents</i> on receipt, including pages within them, and notify the HDA's <i>Representative</i> of any discrepancy or omissions in writing. |
| Copyright of documents | 4 | Use and copy the documents provided by the HDA only for the purpose of preparing and submitting a tender in response to this invitation. |
| Standardised specifications and other publications | 5 | Obtain, as necessary for submitting a tender, copies of the latest revision of standardised specifications and other publications, which are not attached but which are incorporated into the <i>tender documents</i> by reference. |
| | 6 | Acknowledge receipt of Addenda / Tender Briefing Notes to the <i>tender documents</i> , which the HDA's <i>Representative</i> may issue, and if necessary apply for an extension to the <i>deadline for tender submission</i> , in order to take the Addenda into account. |
| Site visit and / or clarification meeting | 7 | Attend a site visit and/or clarification meeting at which <i>tenderers</i> may familiarise themselves with the proposed work, services or supply, location, etc. and raise questions, if provided for in the Scope of work/ specification. Details of the meeting are stated in the RFP document, e-tender website and CIDB website. |
| Seek clarification | 8 | Request clarification of the <i>tender documents</i> , if necessary, by notifying the HDA's <i>Representative</i> earlier than the <i>closing time for clarification of queries</i> . |
| Insurance | 9 | Be informed of the risk that needs to be covered by insurance policy. The <i>tenderer</i> is advised to seek qualified advice regarding insurance. |
| Pricing the tender | 10 | Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes (except VAT), and other levies payable by the successful <i>tenderer</i> . Such duties, taxes and levies are those applicable 14 days prior to the <i>deadline for tender submission</i> . |
| | 11 | Show Value Added Tax (VAT) payable by The HDA separately as an addition to the tendered total of the prices. |

- 12 Provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as provided for in the *conditions of contract*.
- 13 State the rates and Prices in South African Rand unless instructed otherwise as an additional condition in the Scope of work/ specification. The selected *conditions of contract* may provide for part payment in other currencies.
- Alterations to documents** 14 Not make any alterations or an addition to the tender documents, except to comply with instructions issued by the HDA's *Representative* or if necessary to correct errors made by the *tenderer*. All such alterations shall be initialled by all signatories to the tender. Corrections may not be made using correction fluid, correction tape or the like.
- Submitting a tender** 15 Submit a tender for providing the whole of the works, services or supply identified in the Contract Data unless stated otherwise as an additional condition in the Scope of work/ specification.
- NOTE:** 16 **Return the completed and signed *Tender document and SBD forms provided with the tender.***
- 17 **Submit the tender as an original and an electronic version which must be contained in USB clearly marked in the Bidders name as stated. Tenders may not be written in pencil but must be completed in ink.**
- 18 Sign and initial the original tender where indicated. The HDA will hold the signatory duly authorised and liable on behalf of the *tenderer*.
- 19 Seal the bid document in an envelope/package, the HDA's address and invitation to tender number stated in the Scope of work/ specification, **as well as the *tenderer's* name and contact address should be written on the envelope /package.** Where the tender is based on a two envelop system tenderers must further indicate in the package whether the document is **envelope / package 1 or 2. The envelope/package must be marked "CONFIDENTIAL"**.
- 20 Accept that the HDA will not assume any responsibility for the misplacement or premature opening of the tender if the outer package is not sealed and marked as stated.

Note:



The HDA does not to receive BIDS by post, and takes no responsibility for delays in the postal system or in transit within or between the HDA offices.

The HDA does not to receive tenders by fax, the HDA takes no responsibility for difficulties in transmission caused by line or equipment faults.

Where tenders are sent via courier, the HDA takes no responsibility for tenders delivered to any other site than the tender office.

The HDA employees are not permitted to deposit a tender into the HDA tender box on behalf of a tenderer.

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| Closing time | 25 | Ensure that the HDA has received the tender at the stated address no later than the <i>deadline for tender submission</i> . Proof of posting will not be taken by the HDA as proof of delivery. The HDA will not accept a tender submitted telephonically, by Fax or E-mail unless stated otherwise in the tender document. |
| | 26 | Accept that, if the HDA extends the <i>deadline for tender submission</i> for any reason, the requirements of these Conditions of Tender apply equally to the extended deadline. |
| Tender validity | 27 | Hold the tender(s) valid for acceptance by the HDA at any time within the <i>validity period</i> after the <i>deadline for tender submission</i> . |
| | 28 | Extend the <i>validity period</i> for a specified additional period if the HDA requests the <i>tenderer</i> to extend it. A <i>tenderer</i> agreeing to the request will not be required or permitted to modify a tender, except to the extent the HDA may allow for the effects of inflation over the additional period. |
| Clarification of tender after submission | 29 | Provide clarification of a tender in response to a request to do so from the HDA's <i>Representative</i> during the evaluation of tenders. This may include providing a breakdown of rates or Prices. No change in the total of the Prices or substance of the tender is sought, offered, or permitted except as required by the HDA's <i>Representative</i> to confirm the correction of arithmetical errors discovered in the evaluation of tenders. The total of the Prices stated by the <i>tenderer</i> as corrected by the HDA's <i>Representative</i> with the concurrence of the <i>tenderer</i> , shall be binding upon the <i>tenderer</i> |
| Submit bonds, policies etc. | 30 | If instructed by the HDA's <i>Representative</i> (before the formation of a contract), submit for the HDA's acceptance, the bonds, guarantees, policies and certificates of insurance required to be provided by the successful <i>tenderer</i> in terms of the <i>conditions of contract</i> . |



- 31 Undertake to check the final draft of the contract provided by the HDA's *Representative*, and sign the Form of Agreement all within the time required.
- 32 Where an agent on behalf of a principal submits a tender, an authenticated copy of the authority to act as an agent must be submitted with the tender.

THE HDA'S UNDERTAKINGS

The HDA, and the HDA's *Representative*, shall:

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| Respond to clarification | 1 | Respond to a request for clarification received earlier than the <i>closing time for clarification of queries</i> . The response is notified to all <i>tenderers</i> . |
| Issue Addenda | 2 | If necessary, issue to each <i>tenderer</i> from time to time during the period from the date of the Letter of Invitation until the <i>closing time for clarification of queries</i> , Addenda that may amend, amplify, or add to the <i>tender documents</i> . If a <i>tenderer</i> applies for an extension to the <i>deadline for tender submission</i> , in order to take Addenda into account in preparing a tender, the HDA may grant such an extension and the HDA's <i>Representative</i> shall notify the extension to all <i>tenderers</i> . |
| Return late tenders | 3 | Reject tenders received after the <i>deadline</i> . Tenders will be deemed late if they are not in the designated tender box at the date and time stipulated as the deadline for tender submission. |
| Non-disclosure | 4 | Not disclose to <i>tenderers</i> , or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of tenders and recommendations for the award of a contract. |
| Grounds for rejection | 5 | Consider rejecting a tender if there is any effort by a <i>tenderer</i> to influence the processing of tenders or contract award. |
| Disqualification | 6 | Instantly disqualify a <i>tenderer</i> (and his tender) if it is established that the <i>tenderer</i> offered an inducement to any person with a view to influencing the placing of a contract arising from this invitation to tender. |
| Test for responsiveness | 7 | Determine before detailed evaluation, whether each tender properly received <ul style="list-style-type: none"> • meets the requirements of these Conditions of Tender, • has been properly signed, and |

- is responsive to the requirements of the *tender documents*.
- 8 Judge a responsive tender as one which conforms to all the terms, conditions, and specifications of the *tender documents* without material deviation or qualification. A material deviation or qualification is one which, in the HDA 's opinion would
- detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Contract Data,
 - change the HDA's or the *tenderer's* risks and responsibilities under the contract, or
 - affect the competitive position of other *tenderers* presenting responsive tenders, if it were to be rectified.
- Non-responsive tenders** 10 Reject a non-responsive tender, and not allow it to be subsequently made responsive by correction or withdrawal of the non-conforming deviation or reservation.
- Arithmetical errors** 11 Check responsive tenders for arithmetical errors, correcting them as follows:
- Where there is a discrepancy between the amounts in figures and in words, the amount in words shall govern.
 - If a bill of quantities applies and there is a discrepancy between the rate and the line item total, resulting from multiplying the rate by the quantity, the rate as quoted shall govern. Where there is an obviously gross misplacement of the decimal point in the rate, the line item total as quoted shall govern, and the rate will be corrected.
 - Where there is an error in the total of the Prices, either as a result of other corrections required by this checking process or in the *tenderer's* addition of prices, the total of the Prices, if any, will be corrected.
- 12 Reject a tender if the *tenderer* does not accept the corrected total of the Prices (if any).
- Evaluating the tender** 13 Evaluate responsive tenders in accordance with the procedure stated in the RFP / Scope of work/ specification.
- Clarification of a tender** 14 Obtain from a *tenderer* clarification of any matter in the tender which may not be clear or could give rise to ambiguity in a contract arising from this tender if the matter were not to be clarified.
- Acceptance of tender** 15 Notify the HDA's acceptance to the successful *tenderer* before the expiry of the *validity period*, or agreed additional period. Providing the notice of acceptance does not contain any qualifying statements, it will



constitute the formation of a contract between the HDA and the successful *tenderer*.

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| Notice to unsuccessful tenderers | 16 | After the successful <i>tenderer</i> has acknowledged the HDA's notice of acceptance, notify other <i>tenderers</i> that their tenders have not been accepted, following the HDA's current procedures. |
| Prepare contract documents | 17 | <p>Revise the contract documents issued by the HDA as part of the <i>tender documents</i> to take account of</p> <ul style="list-style-type: none"> • Addenda issued during the tender period, • inclusion of some of the <i>tender returnables</i>, and • other revisions agreed between THE HDA and the successful <i>tenderer</i>, before the issue of THE HDA's notice of acceptance (of the tender). |
| Issue final contract | 18 | Issue the final contract documents to the successful <i>tenderer</i> for acceptance within one week of the date of the HDA's notice of acceptance. |
| Sign Form of Agreement | 19 | Arrange for authorised signatories of both parties to complete and sign the original Form of Agreement within two weeks of the date of the HDA's notice of acceptance of the tender. If either party requires the signatories to initial every page of the contract documents, the signatories for the other party shall comply with the request. |

Annexure: 1

SCOPE OF WORK

The scope of work for the appointed Professional Resource Team (PRT) involves but is not limited to activities indicated below. The scope shall cover Stages 0 – 6 with the following high-level breakdown:

Stage 0: Pre – Initiation

- a) Conduct due diligence on financial, technical and legal
- b) Identify major statutory or regulatory constraints that may prevent efficient project implementation.
- c) Identify any jurisdictional conflicts between government entities/institutions that need to be resolved before the project can proceed to implementation
- d) Detail necessary health and safety plans.
- e) Provide qualitative analysis. This can be achieved by using a risk matrix that identifies the project's risks, defines the rating scales of the identified risks in terms of their likelihood of occurring and the potential impacts of the risks on the success of the project, Aggregates the risks, mitigates the risks.
- f) Analyse the main risks including technical, financial, economic, social and political risks.

Deliverables will typically include:

- Technical assessment report

Stage 1: Initiation

- a) Assist in developing a clear project brief.
- b) Attend project initiation meetings.
- c) Advise on procurement strategy for the project.
- d) Advise on the rights, constraints, consents and approvals.
- e) Confirm if there is no asbestos material on the building.
- f) Define the scope of services and scope of work required.
- g) Conclude the terms of the agreement with the client.



- h) Inspect the site and advise on the necessary surveys, analyses, tests and site or other investigations where such information will be required for Stage 2 including the availability and location of infrastructure and services.
- i) Determine the availability of data, drawings and plans relating to the project. Should the as-built not be available from CoJ, Eskom or the engineering firm which designed the building. The service provider to provide letters from these government entities stating that the as-builts are not available and thereafter commencing with as-builts.
- j) Advise on criteria that could influence the project life cycle cost significantly.
- k) Provide necessary information within the agreed scope of the project to other consultants involved.
- l) Review conditional assessment of the building including all mechanical, electrical work and the overall aesthetic of the building and detailed recommendations for each aspect of the building.
- m) Provide detailed structural assessment of the building with all necessary tests to determine the structural integrity of building and its suitability to be converted into the residential building and methods of improving security around the building.
- n) Perform hydrological study including using various approaches such as geologic setting assessment, hydraulic tests, geochemistry and tracer tests, surface fracture surveys, remote sensing, and using Digital Elevation Model (DEM) and Geographic Information Systems (GIS) data amongst others.
- o) Compliance to the minimum norms and standards for Social Housing as well as ensuring relevant submissions to the SHRA to meet development standards of a social housing building.
- p) Asbestos testing report from the (AIA) Approved Inspection Authority appointed by the PRT. Proof of registration with the Department of Labour to be provided.

Deliverables will typically include:

- Agreed scope of services and scope of work.
- Stakeholder engagement minutes and registers such as Eskom, CoJ, Council of Geoscience and Department of Water and Sanitation, Johannesburg Water, SHRA, HDA, Green Building Council of South Africa
- Safety improvement on the building report
- As-built drawings (civils, structural, electrical, mechanical and architectural)
- Structural assessment report

- Ground Water Management Plan and report – hydrological studies, leak detection tests to be conducted (Permanent solution to be provided for the flooded basements and costs included for remedial works).
- Signed agreement (MOUs/SLAs), if applicable.
- Report on project. site and functional requirements
- Schedule of required surveys, tests, analyses, site and other investigations.
- Schedule of consents and approvals

Stage 2: Concept and viability (Concept/Preliminary Design)

- a) Provide a proposed programme plan to be approved by the HDA.
- b) Attend design and consultants' meetings.
- c) Establish the concept design criteria.
- d) Perform an options analysis involves the identification and analysis of various strategies that can be used to achieve the project's objective(s). The options analysis to consider a reasonable range of alternatives available to address the core problem(housing shortages) with reasonable cost estimates.
- e) Prepare initial concept design and related documentation.
- f) Advise the client regarding further surveys, analyses, tests, and investigations which may be required.
- g) Establish regulatory authorities' requirements and incorporate into the design.
- h) Refine and assess the concept design to ensure conformance with all regulatory requirements and consents.
- i) Establish access, utilities, services, and connections required for the design.
- j) Coordinate design interfaces with other consultants involved.
- k) Prepare process designs (where required), preliminary designs, and related documentation for approval by authorities and client and suitable for costing.
- l) Provide cost estimates and life cycle costs as required.
- m) Liaise, co-operate and provide necessary information to the client and other consultants involved.



Deliverables will typically include:

- Concept design for social housing project, or green social housing/ student housing (which concept will be cost effective with minimal risks to projects and with long-term benefits)
- Schedule of required surveys, tests and other investigations and related reports.
- Traffic Impact studies should it be a requirement from the Local Authority
- Process design.
- Preliminary design for all services (Civil, structural, electrical, mechanical, and architectural) etc.
- Cost estimates as required for all services.

Stage 3: Design Development (Detailed Design)

- a) Review documentation programme with other consultants involved.
- b) Attend design and consultants' meetings.
- c) Incorporate client's and authorities' detailed requirements into the design.
- d) Incorporate other consultant's designs and requirements into the design.
- e) Prepare design development drawings including draft technical details and specifications.
- f) Review and evaluate design and outline specification and exercise cost control.
- g) Prepare detailed estimates of construction cost.
- h) Liaise, co-operate, and provide necessary information to the other consultants involved.
- i) Submit the necessary design documentation to local and other authorities for approval.

Deliverables will typically include:

- Council approved design development drawings.
- Outline specifications.
- Local and other authority submission drawings and reports.
- Detailed estimates of construction costs.

Stage 4: Design Documentation and Procurement

- a) Attend design and consultants' meetings.
- b) Prepare specifications and preambles for the works.
- c) Accommodate services design.
- d) Check cost estimates and adjust designs and documents if necessary to remain within budget.
- e) Formulate the procurement strategy for contractors where relevant.
- f) Prepare documentation for contractor procurement.
- g) Conclude and review designs, drawings, and schedules for compliance with approved budget.
- h) Assist in calling for tenders.
- i) Liaise, co-operate, and provide necessary information to the other consultants as required.
- j) Assist with the preparation of contract documentation for signature.
- k) Assess samples and products for compliance and design intent.

Deliverables will typically include:

- Specifications.
- Services co-ordination.
- Working drawings.
- Budget construction cost.
- Tender documentation.
- Tender recommendations.
- Priced contract documentation.

Stage 5: Works

Health and Safety matters to be addressed by the consultants amongst other matters.

Adequate safety measures should be adhered to at all times as indicated and not limited to the section below:

Construction Regulation 2014

Fall protection:

- 1) A contractor must—
 - a) designate a competent person to be responsible for the preparation of a fall protection plan;
 - b) ensure that the fall protection plan contemplated in paragraph (a) is implemented, amended where and when necessary and maintained as required; and
 - c) take steps to ensure continued adherence to the fall protection plan.

- 2) A fall protection plan contemplated in sub-regulation (2.1), must include—
 - a) a risk assessment of all work carried out from a fall risk position and the procedures and methods used to address all the risks identified per location;
 - b) the processes for the evaluation of the employees' medical fitness necessary to work at a fall risk position and the records thereof;
 - c) a programme for the training of employees working from a fall risk position and the records thereof;
 - d) the procedure addressing the inspection, testing and maintenance of all fall protection equipment; and
 - e) a rescue plan detailing the necessary procedure, personnel and suitable equipment required to affect a rescue of a person in the event of a fall incident to ensure that the rescue procedure is implemented immediately following the incident.

- 3) Prepare Environmental Management Plan and all other related health and safety documentation including ensuring the contractor complies with Construction Regulation 2014 and approve all documentation submitted by the contractor pre, during and post construction.

Construction works:

- a) Prepare site handover certificate from the Department of Labour as per CIDB contracts (NEC, JBCC, FIDIC and GCC etc.).
- b) Issue construction documentation in accordance with the documentation schedule including in the case of structural engineering, reinforcing bending schedules and detailing and specifications of structural steel sections and connections.

- c) Carry out contract administration procedures in terms of the contract.
- d) Prepare a construction programme as per contract.
- e) Prepare schedules of predicted cash flow.
- f) Prepare pro-active estimates of proposed variations for client decision making.
- g) Attend regular site, technical and progress meetings.
- h) Inspect works for conformity to contract documentation.
- i) Adjudicate and resolve financial claims by contractor(s).
- j) Assist in the resolution of contractual claims by the contractor.
- k) Establish and maintain a financial control system.
- l) Clarify details and descriptions during construction as required.
- m) Prepare valuations for payment certificates to be issued by the principal agent.
- n) Witness and review of all tests and mock ups carried out both on and off site.
- o) Check and approve contractor drawings for design intent.
- p) Update and issue drawings register.
- q) Issue contract instructions as and when required.
- r) Review and comment on operation and maintenance manuals, guarantee certificates and warranties.
- s) Inspect the works and issue practical completion and defects lists.
- t) Arranging for the delivery of all test certificates, including the Electrical Certificate of Compliance, statutory and other approvals, as built drawings and operating manuals.

Deliverables will typically include:

- Signed Contract
- Construction Programme.
- Schedules of predicted cash flow.
- Construction documentation, including construction drawings Construction permit achieved, verification of guarantees, project enrolment inspection and approval of health and safety file.

- Fall protection documents are approved and submitted.
- Construction permit achieved.
- Quality inspections reports and certification of all works.
- Building control inspection are conducted.
- Drawing register.
- Estimates for proposed variations.
- Contract instructions.
- Health and Safety plan
- Monthly progress report, health and safety reports
- Financial control reports.
- Valuations for payment certificates.
- Progressive and draft final account(s)
- Practical completion and defects list
- Electrical Certificate of Compliance
- Occupation certificates
- Fire compliance certificate.

Stage 6: Close out

- a) Inspect and verify the rectification of defects.
- b) Receive, comment, and approve relevant payment valuations and completion certificates.
- c) Prepare and/or warranties. procure operations and maintenance.
- d) Prepare and/or procure as-built drawings and documentation.
- e) Conclude the final accounts where relevant.

Deliverables will typically include:



- Valuations for payment certificates
- Works and final completion list manuals, guarantees and
- Operations and maintenance manuals, guarantees and warranties.
- As-built drawings and documentation
- Defects liability report
- Final accounts
- Close out report

Team composition

The professional resource team (PRT) firm should provide a multi-disciplinary team which has the skills, expertise, and experience necessary to undertake the range of activities set out in this Terms of Reference. The team composition should not be changed without the approval of the Housing Development Agency.

The skills, expertise and experience required are as follows:

Professional Resource Team required Braamfontein:

Team composition	Minimum Qualifications and Category of Professional Registration
Project Director, (Team Leader) – Structural Engineer	A BSc/B-Tech and/or master’s degree in civil engineering Registration as a Professional Engineer/Technologist in terms of the Engineering Professions Act, 2000. Registration with the Institute of Structural Engineers in South Africa. Must have 10 or more years’ post- ECSA registration experience in the planning, design of high-rise buildings, project preparation, and project management of the delivery infrastructure, including municipal infrastructure in South Africa. <i>Portfolio of evidence to be provided for a minimum 9-storey buildings above ground level.</i>
Project Manager: Technical	Bachelor of Science (Hons)/B-Tech in Construction Management Registration as a Construction Manager in terms of the Project and Construction Management Professions Act, 2000. Must have at least 6 or more years post-registration experience in construction

Team composition	Minimum Qualifications and Category of Professional Registration
	management of high-rise buildings. <i>Portfolio of evidence to be provided for a minimum 9-storey buildings above ground level</i>
Architect	<p>Bachelor's degree in architectural science and/or master's degree in architectural studies</p> <p>Must be registered as a Professional Architect (SACAP)</p> <p>Must have at least 10 years' post-registration experience in the provision of services on Architectural projects, including design and refurbishment of existing high-rise buildings – <i>Portfolio of evidence to be provided for a minimum 9-storey buildings above ground level.</i></p>
Civil Engineer	<p>Bachelor's degree in civil engineering / B-Tech in Civil Engineering specializing in Water Engineering/Management</p> <p>Registration as a Professional Engineer or Technologist in terms of the Engineering Professions Act, 2000.</p> <p>Must have at least 6 years post-ECSA registration experience in hydrological studies, planning, design of water and sewer, stormwater management services for high-rise buildings, and delivery of infrastructure in South Africa. <i>Portfolio of evidence to be provided for a minimum 9-storey buildings above ground level.</i></p>
Electrical Engineer	<p>Bachelor's degree in electrical engineering / B-Tech in Electrical Engineering specializing in heavy current.</p> <p>Registration as a Professional Engineer/Technologist in terms of the Engineering Professions Act, 2000.</p> <p>Must have at least 6 years' post-ECSA registration experience in the planning, and design of electrical works for high-rise buildings, project preparation, and project management of the delivery of infrastructure in South Africa. <i>Portfolio of evidence to be provided for a minimum 9 - storey buildings above ground level.</i></p>
Quantity Surveyor	<p>Bachelor's degree in quantity surveying</p> <p>Registration as a Quantity Surveyor in terms of the Quantity Surveying Professions Act, 2000. (SACQSP)</p> <p>Must have at least 6 years' post-registration experience in Quantity Surveying,</p>

Team composition	Minimum Qualifications and Category of Professional Registration
	cost management and cost control of buildings, civil works and related infrastructure services.
Town Planner	<p>Bachelor's degree in Town and Regional planning</p> <p>Must be registered as a Professional Town planner (SACPLAN)</p> <p>Must have at least 5 years' post-registration experience in the provision of services on town planning projects.</p>
Mechanical Engineer	<p>Bachelor's degree in mechanical engineering</p> <p>Registration as a Professional Engineer in terms of the Engineering Professions Act, 2000.</p> <p>Must have at least 5 years' post-registration experience in the planning, design, project preparation, and project management of the delivery of infrastructure in South Africa. <i>Portfolio of evidence to be provided for 9 - storey buildings above ground level</i></p>
Occupational Health and Safety Professional	<p>Bachelor's Degree in Environmental Health, or in Public Health, or in Safety Risk Management, or equivalent, plus</p> <p>Registration with the South African Institute of Occupational Safety and Health (SAIOSH), or with the Institute of Safety Management (IOSM) as a registered Occupational Safety Professional or SACPCMP registration.</p> <p>Must have at least 10 years' experience in the occupational health and safety management on public infrastructure delivery programmes and general construction works.</p>
Market and Economic Researcher	<p>Bachelor's degree in commerce / marketing/ economics or Equivalent.</p> <p>Must have at least 10 years post-graduation (working) experience in market research / economic research and analysis in the economic aspects of the provision of socio-economic infrastructure services</p>
Project Coordinator	<p>BA Degree in General</p> <p>Must have at least 10 years post-graduation (working) experience in stakeholder management</p>
Project Administrator	<p>A degree in Public Administration</p> <p>Must have at least 2 years post-graduation (working) experience in administration</p>



Table Team Composition

The appointed service provider shall provide training as outlined in the ECSA and Architectural guidelines for professional registrations.

Project Duration:

The contract will be valid for three (3) years.



FORM C: TENDER FORM- Volume 2 (Envelop 2/ Package 2)

CURRENT TENDER DETAILS	
Request number:	HDA/HO/2024/021
Request for Tender:	THE APPOINTMENT OF PROFESSIONAL RESOURCE TEAM TO PROVIDE HANDS-ON MULTI-DISCIPLINARY TECHNICAL DELIVERY CAPACITY SUPPORT FOR THE REFURBISHMENT OF THE EXISTING FORMER ESKOM OFFICE BUILDING INTO A PILOT SOCIAL HOUSING PROJECT BY THE HDA IN BRAAMFONTEIN JOHANNESBURG.

I / We _____

(Insert Name of Tendering Entity)

Of

(Full address)

Conducting business under the style or title of:

Represented by:

in my capacity as:

being duly authorised thereto by a Resolution of the Board of Directors / Certificate of Partners, Members or Participants, as the case may be, dated _____, a certified copy of which is annexed hereto, hereby offer to undertake and complete the above-mentioned work (hereinafter called "the WORKS") at the prices quoted in the bills of quantities / schedule of quantities or, where these do not form part of the contract, at a lump sum, in accordance with the terms set forth in the accompanying letter(s) reference _____ and dated _____ (if any) and the documents listed in the accompanying schedule of tender documents for the sum of R _____



_____ (amount in words), (All applicable taxes included)

- N.B.** (i) In the event of any discrepancy, the amount in words will take precedence over the amount in figures.
- (ii) Where items in the priced bills of quantities submitted with the tender for the WORKS other than architectural building work are incorrectly extended arithmetically, the unit rate will be treated as decisive.
- (iii) In tenders for architectural building work the total amount will be treated as decisive. If amounts for individual items cannot be reconciled with the total amount, the amounts for individual items shall be adjusted to the satisfaction of the HDA to conform to the total amount.

The following list of persons are hereby authorised to negotiate on behalf of the abovementioned entity, should THE HDA decide to enter into Post Tender Negotiations with shortlisted bidder(s).

FULL NAME (S)	CAPACITY:	SIGNATURE:

I/We hereby offer to supply the abovementioned Services at the prices quoted in the schedule of prices in accordance with the terms set forth in the documents listed in the accompanying schedule of RFP documents.

I / We accept that should the HDA accept my / our tender and issue me / us with the notice of acceptance, this tender and, if any, its covering letter and any subsequent exchange of correspondence together with the HDA acceptance thereof, such acceptance shall be subject to a written contract to be concluded between the HDA and me / us.



I / We undertake to produce acceptable documentary proof of the necessary coverage for Workmen's Compensation, Securities and Insurance within **30 (thirty)** working days of notification of awarding of the contract, and to sign a formal contract if called upon by the HDA to do so within **7 (seven)** working days of notification by the HDA that the contract documents are ready for signature.

I / We undertake to complete the whole of the WORKS within _____
(in words) from the date of notification to me / us of acceptance of the tender, subject to completion in stages if and as laid down in the project specification and to such extensions of time as may be granted. Failing completion of the WORKS or any stage of the WORKS within the period(s) stipulated or by such extended date(s) as may be allowed by the HDA I / we shall pay to the HDA in terms of the Conventional Penalties Act 15 of 1962, the penalty for which provision is made in the project specification. The ordering of any alterations, extras, additions or omissions shall not in any way prejudice the HDA claim for such penalty.

Application for relief from the obligation to pay a penalty will be considered by the HDA, but shall be granted only if I / we can prove to the reasonable satisfaction of the HDA that the penalty is out of proportion to the prejudice suffered by the HDA by reason of the act or omission in respect of which the penalty was stipulated.

I / We declare that this tender holds good until _____ **(a minimum period of 120 Business Days from closing date is required).**

I / We further agree that if, after I / we have been notified of the acceptance of my / our tender, I / we fail to enter into a formal contract if called upon to do so, or fail to furnish satisfactory security for the due and proper completion of the WORKS, the HDA may, without prejudice to any other legal remedy which it may have, recover from me / us any expense to which it may have been put in calling for tenders afresh and / or having to accept any less favourable tender.

I / We declare that, being a company / partnership / close corporation / joint venture, I / we have duly completed the annexe hereto and certified it as correct.

The several documents involved are to be taken as complementary to each other. In the event of any conflict between the content of any of the documents listed in the schedule of tender documents (other than the project specification) and the project specification, the latter shall prevail. In the event of any conflict between the letter that accompanies the tender or other relevant correspondence and the contents of the documents listed in the schedule of tender documents (including the project specification) such letter or correspondence shall prevail.



I/we agree that non-compliance with any of the material terms of this RFP, including those mentioned above, will constitute a material breach of contract and provide the HDA with cause for cancellation.

THUS DONE and SIGNED at _____

on this _____ day of _____

DULY AUTHORISED SIGNATORY(IES) WITNESSES

- | | | | |
|----|-------|----|-------|
| 1. | _____ | 1. | _____ |
| 2. | _____ | 2. | _____ |
| 3. | _____ | 3. | _____ |

Annexure: 2

PRICING SCHEDULE

All milestones under each phase to be costed individually and during the design phase, the service provider shall provide proof submission to the council for approval of design. Once submission is done, HDA will process 40% of the cost for designs and the remaining budget to be processed once the council has approved the design drawing.

Project phase	Percentage of Sub-total cost	Milestone	Cost per milestone	Total per project phase
Initiation	5%			
Concept	15%			
Design	25%			
Documentation	15%			
Construction	35%			
Close-out	5%			
Sub- Total	100%			
Contingencies @ 15%			R	
VAT @ 15%			R	
Total Inclusive of VAT and Contingencies			R	

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)					
BID NUMBER:	HDA/HO/2024/021	CLOSING DATE:	05 AUGUST 2024	CLOSING TIME:	11:00
DESCRIPTION	APPOINTMENT OF A MULTI - DISCIPLINARY PROFESSIONAL TEAM TO UNDERTAKE DEVELOPMENT APPLICATIONS ON VARIOUS LAND PARCELS, LOCATED IN THE ETHEKWINI AND UMSUNDUZI MUNICIPALITY'S WITHIN THE KWAZULU NATAL PROVINCE				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
THE HOUSING DEVELOPMENT AGENCY					
Reception Area					
04 Kikuyu Road					
Sunninghill, 2157					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	MXOLISI ZONDO		CONTACT PERSON	MXOLISI ZONDO	
TELEPHONE NUMBER	0115441000		TELEPHONE NUMBER	0115441000	
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	Mxolisi.Zondo@thehda.co.za		E-MAIL ADDRESS	Mxolisi.Zondo@thehda.co.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
7 ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		8 ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]	
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE A BRANCH IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?			<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 REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.					

PART B TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:	
1.1.	BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2.	ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.
1.3.	THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
1.4.	THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).
2. TAX COMPLIANCE REQUIREMENTS	
2.1	BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2	BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3	APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
2.4	BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.5	IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED; EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.6	WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
2.7	NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

(Proof of authority must be submitted e.g. company resolution)

DATE:

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

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

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

2. Bidder's declaration

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

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

Full Name	Identity Number	Name of State institution

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

2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES/NO**

2.2.1 If so, furnish particulars:

.....
.....

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

2.3.1 If so, furnish particulars:

.....
.....

3 DECLARATION

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

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

1 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.

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

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

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

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

..... Signature Date
..... Position Name of bidder

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

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

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

1. GENERAL CONDITIONS

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

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

1.2 To be completed by the organ of state

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

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

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

1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
SPECIFIC GOALS	20
Total points for Price and SPECIFIC GOALS	100

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of

this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

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

2. DEFINITIONS

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

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

3.1.1 THE 80/20 PREFERENCE POINT SYSTEMS

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

80/20

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

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

3.2.1. POINTS AWARDED FOR PRICE

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

80/20

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

Where

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

4. POINTS AWARDED FOR SPECIFIC GOALS

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

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

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

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

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (Tenderer to indicate by a cross or a tick against the selected specific goals)
Size of Company (7)		
• EME	7	
• QSE	5	
• GE	3	
Black women (5)		
75% - 100%	5	
51% - 74.99%	3	
Below 51%	1	
Historically Disadvantaged South Africans* (maximum Points = 8)		
Youth	3	
HDSA	2	
Disabled	3	

DECLARATION WITH REGARD TO COMPANY/FIRM

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

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

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

 SIGNATURE(S) OF TENDERER(S)
SURNAME AND NAME:
DATE:
ADDRESS:

THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT

July 2010

GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT
July 2010

NOTES

The purpose of this document is to:

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

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

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

TABLE OF CLAUSES

1. Definitions
2. Application
3. General
4. Standards
5. Use of contract documents and information; inspection
6. Patent rights
7. Performance security
8. Inspections, tests and analysis
9. Packing
10. Delivery and documents
11. Insurance
12. Transportation
13. Incidental services
14. Spare parts
15. Warranty
16. Payment
17. Prices
18. Contract amendments
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Dumping and countervailing duties
25. Force Majeure
26. Termination for insolvency
27. Settlement of disputes
28. Limitation of liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties
33. National Industrial Participation Programme (NIPP)
34. Prohibition of restrictive practices

General Conditions of Contract

1. Definitions

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

RSA.

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

obligations of the supplier covered under the contract.

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

2. Application

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

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

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

3. General

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

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

4. Standards

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

5. Use of contract documents and information; inspection.

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

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

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

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

6. Patent rights

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

7. Performance security

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

8. Inspections, tests and analyses

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

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

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

9. Packing

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

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

10. Delivery and documents

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

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

11. Insurance

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

12. Transportation

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

13. Incidental services

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

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

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

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

14. Spare parts

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

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

15. Warranty

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

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

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

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

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

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

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

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

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

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

22. Penalties

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

23. Termination for default

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

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

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

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

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

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

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

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

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

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

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

24. Anti-dumping and countervailing duties and rights

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

may be due to him

25. Force Majeure

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

26. Termination for insolvency

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

27. Settlement of Disputes

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

28. Limitation of liability

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

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

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