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**REQUEST FOR PROPOSALS: PROVISION OF INTERNAL AUDIT SERVICES FOR A 2-YEAR PERIOD.**

**REFERENCE NO: RFP 82 – 2021/22**

ECRDA  
14 St Helena Road  
Infinity Place  
Beacon Bay  
EAST LONDON

**Name of Tenderer/Bidder:**

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**Total Bid Price:** \_\_\_\_\_

**Compulsory Briefing Session: No**

**Bid issue date: 14 FEBRUARY 2022**

**Closing Date: 21 FEBRUARY 2022**

**Closing Time: 11h00**

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## DEFINITIONS

In this bid, unless the context indicates otherwise, any word or expression to which the meaning has been assigned must bear the meaning so assigned-

- a) **“Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No.5 of 2000) unless the context indicates otherwise;
- b) **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- c) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- d) **“business day”** means an official working day of the week between and including Monday to Friday and which excludes public holidays and weekends;
- e) **“comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- f) **“consortium or joint venture”** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
- g) **“contract”** means the agreement that results from the acceptance of a tender by an organ of state;
- h) **“designated sector”** means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content;
- i) **“firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- j) **“functionality”** means the measurement according to predetermined norms, as set out in the tender documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account among other factors, the quality, reliability, viability, and durability of a service and the technical capacity and ability of a tenderer;
- k) **“imported content”** means that portion of the tender price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its 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 port of entry;

- l) **“local content”** means that portion of the tender price which is not included in the imported content, provided that local manufacture does take place;
- m) **“non-firm prices”** means all prices other than “firm” prices;
- n) **“Order”** means an official written order issued for the supply of goods or works or the procuring of a service;
- o) **“person”** includes a juristic person;
- p) **“stipulated minimum threshold”** means that portion of local production and content as determined by the Department of Trade and Industry;
- q) **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;

## SECTION A

### REQUEST FOR PROPOSALS (RFP) – PROVISION OF INTERNAL AUDIT SERVICES FOR A 2-YEAR PERIOD.

REFERENCE NUMBER: RFP 82 – 2021/22

#### 1. Background: Bid Process

##### 1.1 Introduction

The ECRDA is a Provincial Public Entity as referred to in Schedule 3C of the PFMA. The entity was established following a decision by the Government of the Eastern Cape to consolidate and integrate the overlapping mandates of provincial entities on matters pertaining to Rural Development and Agrarian reform. The entity is seeking services of suitable service providers to submit proposals for provision of internal audit activities in line with the requirements of the Institute of Internal Auditors, the PFMA, and the approved ECRDA Internal Audit Charter for a 2-year period.

##### 1.2 Bid Specific Conditions

Bidders are required to properly complete the bid document, attach relevant information and adhere to the conditions as stipulated below.

###### 1.2.1 Returnable documents

- a) Bidders must submit proof of registration on the National Central Supplier Database (CSD). In terms of National Treasury Instruction No. 4A of 2016/17 regarding the (CSD), all bidders must register on the CSD to provide the following information to be verified through the CSD:
  - (i) Business registration, including details of directorship and membership;
  - (ii) Bank Account holder information;
  - (iii) In the service of the State status;
  - (iv) Tax compliance status;
  - (v) Identity number;
  - (vi) Tender default and restriction status.
- b) Bidders must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof substantiating their B-BBEE rating issued by a Verification Agency accredited by SANAS. A sworn affidavit in a prescribed form will be accepted from bidders qualifying as EME's or QSE's.
- c) Failure by the bidder to submit a B-BBEE certificate as mentioned above will result in the bidder not being allocated any preference points.
- d) The following Standard Bidding Documents (SBDs) must be completed in full and duly signed where relevant.
  - (i) Invitation to bid (SBD 1);

- (ii) Authority of signature
- (iii) Pricing schedule (SBD 3.1)
- (iv) Declaration of interest (SBD 4)
- (v) Preference Points claim form (SBD 6.1)
- (vi) Declaration of bidders past SCM activities (SBD 8)
- (vii) Certificate of Independent bid determination (SBD 9)
- (viii) General conditions of contract

### 1.2.2 Submission of Bid Documents

- a) All standard bidding documents, forms, annexures and addenda (where applicable) shall be completed in full and signed where required.
  - a) Any expenses incurred by the bidder in the preparation and submission of tender will be solely for the bidder's account and ECRDA shall not be liable for such expenses in whatsoever manner.
  - b) The completed bid document must be submitted via email only to [tenders@ecrda.co.za](mailto:tenders@ecrda.co.za).
  - c) All email submissions must be broken into size smaller than 30MB per email.
  - d) All documents must preferably be sent in PDF (compressed if possible) format.
  - e) Bidders are to note that bids must be received by ECRDA by the deadline. It is not sufficient to send it before the deadline.
  - f) Bidders are therefore required to make sure that large emails, that may take long to be transported through email system, be sent well in advance of the required receipt deadline.
  - g) Bidders MUST make use of the tender reference in their email subject lines.
  - h) Bidders are recommended to make use of logical subject names for emails when submitting bids. IE. SCMU 03 TENDER - Legal Experts Submission – Part 1, SCMU 03 TENDER - Legal Experts Submission – Part 2, SCMU 03 TENDER - Legal Experts Submission – Part 3, etc.

### 1.2.3 Validity of prices

- a) All prices shall be quoted in South African currency inclusive of VAT and will hold good for 90 days (validity period of bids) from the closing date.
- b) Only firm prices will be accepted in respect of this bid.

### 1.2.4 Negotiating a fair market price

- a) The ECRDA reserves the right to enter into negotiations with the preferred bidders for a fair market price if on its own assessment is of the view that the highest scoring bidder is charging prices higher than the fair market price.

### **1.2.5 Authority to sign**

- a) Bidders must indicate the capacity under which the bid is signed by a delegated individual (e.g. director) and provide proof of authority (e.g. a resolution).
- b) The specimen of authority of signature/resolution has been attached in the bid document for both companies/close corporations/partnerships and sole proprietorship.

### **1.2.6 Trust/Consortium/Joint Ventures**

- a) A trust/consortium/joint venture agreement must be formalized prior to submitting the bid.
- b) The trust/consortium/joint venture agreement must be submitted with the bid proposal bearing signatures of all the parties concerned and disclosing at a minimum the following key information:
  - Names of the parties to the agreement;
  - Management;
  - Percentage participation by each member;
  - Banking details
- c) A trust, consortium or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE status level verification certificate for claiming preference points.

## **1.3 Bid Enquiries**

- 1.3.1 Technical Enquiries should be directed to Ms V. Zazi - Telephone: 043 703 6300/ 082 558 6299 or email: [zaziv@ecrda.co.za](mailto:zaziv@ecrda.co.za).
- 1.3.2 Administrative Enquiries should be directed to Mrs M Esben -Telephone: 043 703 6300 or email: [esbenm@ecrda.co.za](mailto:esbenm@ecrda.co.za).

## **1.4 Contracting**

- 1.4.1 The final award of the contract to the successful bidder is subject to issue of the following documents by ECRDA:
  - a) Letter of award (in terms of which the bidder must indicate acceptance/non-acceptance thereof by way of signature);
  - b) Contract form - SBD 7.2 for completion and signature by both ECRDA and the successful bidder. The contract form has been attached in the bid document for bidders to understand its contents as it will have a binding effect at contract award stage;
  - c) Purchase order.

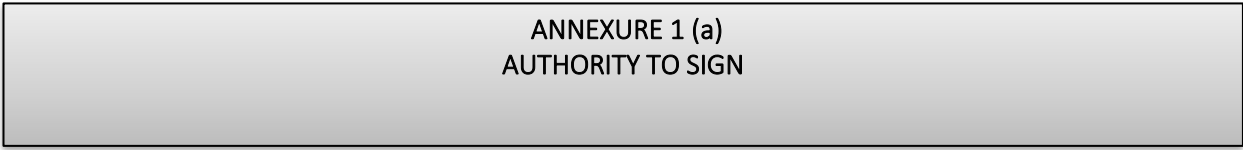
## **1.5 Important to Note**

- 1.5.1 The ECRDA reserves the right not to appoint the highest scoring bidder and/or not to appoint any bidder.



**SECTION B**

**2. AUTHORITY TO SIGN**



Signatories for business entities shall confirm their authority thereto by attaching a duly signed and dated copy of the relevant resolution to this form.

An example is given below:

“By resolution passed at a meeting held on .....

Mr./Ms ....., whose signature appears below, has been duly authorized

to sign all documents in connection with the bid for **Contract NO .....** and any Contract that may

arise there from on behalf of (name of Bidder in block capitals)

.....

**SIGNED ON BEHALF OF THE COMPANY:** .....

**IN HIS/HER CAPACITY AS:** .....

**DATE:** .....

**SIGNATURE OF SIGNATORY:** .....

**WITNESSES:** 1. ....

2. ....

**ANNEXURE 1 (b)  
AUTHORITY TO SIGN**

**Sole Proprietorship/Sole Ownership of Business Enterprise Resolution of Authority**

I, ....., certify that I am the sole owner (“Owner”/ “Director”) of the business operating under the name.....(“Business”), ID Number/Registration Number.....

I further certify that the Business is a sole proprietorship/owned solely by myself and that there is no one else having any right, title, or interest therein. I am the only person authorized to act in the name of or on behalf of the Business.

I have no knowledge of any other business that is using, or being operated under, a name which could be considered confusingly similar to the name of this sole proprietorship. All deposits which are to be made into the account of the sole proprietorship/ business enterprise will consist of funds to which I, the sole proprietor/ director, am legally entitled.

**SIGNATURE OF THE SOLE PROPRIETOR/ DIRECTOR:** .....

**SIGNATURE OF THE SOLE PROPRIETOR:** .....

**DATE:** .....

**WITNESSES:** 1. ....

2. ....

## SECTION C

### **3. TERMS OF REFERENCE FOR PROVISION OF INTERNAL AUDIT SERVICES FOR A 2-YEAR PERIOD.**

#### **3.1 Introduction**

The ECRDA is looking to appoint a service provider to take charge of the internal audit function over a 2-year period contract term, extendable subject to a satisfactory assessment, and terminable at the discretion of the ECRDA. The successful service provider will be expected to perform the internal audit activities in line with the requirements of the Institute of Internal Auditors, the PFMA, and the approved ECRDA Internal Audit Charter.

The ECRDA internal audit function – reporting functionally to the Audit & Risk Committee and administratively to the Chief Executive Officer – is an independent, objective, assurance and consulting activity designed to add value to, and improve the organisation’s operational efficiencies. It assists the ECRDA in accomplishing its objectives by bringing a systematic, disciplined approach to the evaluation and effectiveness of risk management, control and governance processes. Such assurance is based on objective information, in the form of audit opinions, arising from internal audits performed within a combined assurance model.

#### **3.2 Objectives**

The specific objectives of Internal Audit are, amongst others, to:

- Provide an independent appraisal function to examine and evaluate the ECRDA’s activities as a value-added service;
- Review the adequacy and effectiveness of systems of risk management, control and governance processes;
- Assist the agency’s Board and employees in the effective discharge of their duties and responsibilities via its reviews, reporting and recommendations;
- Provide analyses, appraisals, recommendations, counsel, and information concerning the activities reviewed; and
- Promote effective control at reasonable cost.

#### **3.3 Scope of Work**

Against the foregoing objectives, the successful service provider for Internal Audit will be charged with the responsibility to –

- Ensure a capability as well as efficient system and tools for risk identification, assessment, tracking and reporting;

- Develop a three-year rolling strategic internal audit plan using appropriate risk-based methodology, including any risks or control concerns identified by management, and submit the 3-year strategic internal audit plan and periodic updates to the Audit and Risk Committee for review and approval;
- Prepare a detailed internal audit plan for the first year of the rolling plan, to be presented to management and the Audit & Risk Committee, together with fee estimates, for the work to be conducted;
- Implement the annual internal audit plan, as approved, including, and as appropriate, any special tasks or projects requested by management and the Audit & Risk Committee;
- Report to the Audit & Risk Committee on a quarterly basis, on the performance against the annual internal audit plan and on other areas of concern. Quarterly reports to the Audit & Risk Committee and management to summarize the results of the audit activities and detailing its performance against the annual internal audit plan to allow effective monitoring and possible intervention;
- Maintain a professional audit staff with sufficient knowledge, skills, experience, and professional certifications to meet the requirements of the Internal Audit Charter.

In this regard, the ECRDA has three related expectations, namely –

- (i) The service provider working with the internal team of staffer members in the ECRDA's internal audit unit;
- (ii) The service provider working harmoniously with the Auditor General (AG) towards an improved reliance on internal audit, and to ensure that the AG's recommendations are effectively and efficiently woven into the operations of the organisation, and
- (iii) The service provider creating professional development opportunities for qualified young accounting and auditing graduates.

The successful service provider will need to demonstrate in their technical proposal how this will be achieved.

- Perform, if need be and per agreement, consulting services beyond internal audit function's assurance services, to assist management in meeting its objectives. Examples may include facilitation, process design, training, and advisory services;
- Evaluate and assess significant merging/consolidating functions and new or changing services, processes, operations, and control processes coincident with their development, implementation, and/or expansion;
- Keep the Audit & Risk Committee informed of emerging trends and successful practices in the internal auditing field;
- Assist in the assessment for investigation of significant suspected fraudulent and irregular activities within the organization, and notify management and the Audit & Risk Committee of the results.
- The Internal Audit function will interact with various governance groups and/or assurance groups within the ECRDA to ensure that the combined assurance objectives are achieved to the extent possible.

### **3.4 Content of Proposal and Service Provider Requirements**

All the tender proposals submitted for the provision of Internal Audit Services should at a minimum include the following:

- Company name
- Company profile
- Company registered address
- Name of Principal Applicant (Must be authorised to act on behalf of the Company) and contact details including telephone, cellphone numbers and email address.
- Incorporation documents
- A Technical Proposal, with proposed methodology and approach to be used in keeping with the scope of works.
- A Financial Proposal/Bid in line with the technical proposal
- Full and comprehensive description of similar work undertaken in the past 5 years.
- List of current clients and references
- Composition of the service provider's team, their degrees of familiarity with the norms and standards of, as well as accreditation by professional bodies regulating the auditing field, and the specific roles of team members on the assignment.
- CVs of each member of the service provider's team (qualifications, experience, expertise etc.)

### **3.5 Project Management**

#### **3.5.1 Performance of assignments**

Assignments are to be performed in accordance with the Standards for the Professional Practice of Internal Auditing as regulated by the relevant norms and standards setting authorities, both locally and internationally.

All working papers and reports must be appropriately filed and retained for a minimum of three years (3) from date of appointment, unless the firm/individual is notified in writing by the ECRDA of the need to extend the retention period. The service provider will be required to make working papers available, upon request by the ECRDA or its external auditors.

#### **3.5.2 Timing of assignments**

The performance of each assignment shall be in accordance with the internal audit plan as approved by the Audit Committee. Changes to the timing of audits must be agreed with the ECRDA Executive Committee and communicated to the Audit Committee at its quarterly meetings.

#### **3.5.3 Quality assurance of reviews**

The service provider shall ensure that all work conforms to the Standards for the Professional Practice of Internal Auditing. Such work shall further be subject to external quality assurance in line with the internal audit standards.

#### **3.5.4 Monitoring progress of audit assignments**

On a mutually agreed basis, the service provider shall be expected to meet with the ECRDA designated executive and/or executive team, to report progress on the work performed. On a quarterly basis, the service provider shall be expected to report progress against the internal audit plan to the Audit Committee.

#### **3.5.5 Reporting of Audit Results**

The report on findings and recommendations from each audit assignment should be addressed to the Chief Executive Officer and the respective executive managers. These reports will be expected to contain management comments which would have been already discussed and agreed with the responsible persons.

## SECTION D

### 4. EVALUATION PROCESS AND CRITERIA

Proposals will be evaluated in terms of the Preferential Procurement Policy Framework Act 2000 and the Preferential Procurement Regulation of 2017.

The evaluation of bid responses will be conducted in three (3) phases as follows:

#### **4.1 Phase 1: Eligibility/Pre-qualification criteria**

Bidders will be evaluated according to pre-qualification requirements which include the submission of mandatory information or documentation. Bidders that fail to meet the pre-qualification requirements of the bid will not be considered further for evaluation.

- a) The bidder lead director must be registered with the Institute of Internal Auditors.
- b) The bidder lead director must be certified by IRBA as a Registered Auditor
- c) The bidders proposed team to be assigned to ECRDA must have a minimum of three (3) Certified Internal Auditors, CIA (IIA) including the engagement partners and managers and demonstrate competency in Quality assurance.
- d) The bidders proposed team to be assigned to ECRDA must have a minimum of two (2) Chartered Accountants, CA (SA) including the engagement partner.
- e) The bidders proposed team to be assigned to ECRDA must have a minimum of one (1) Certified Information Systems Auditors, CISA (ISACA).
- f) The firm must be registered on the National Treasury supplier database at the time of submitting the proposal.
- g) Bidders must submit proof of Company Registration.
- h) Bidders must submit a statement/strategy of how they intend to contribute to the founding mandate and principles of the ECRDA.
- i) Submission of the following Signed and Completed Standard Bid Documents (SBD) Forms:
  - SBD 1: Invitation to Bid
  - SBD 3.1 Pricing Schedule
  - SBD 4: Declaration of Interest
  - SBD 6.1 Preference Points Claim Form in terms of preferential procurement
  - SBD 8: Declaration of Bidder's Past SCM Practices
  - SBD 9: Certificate of Independent Bid Determination
  - General Conditions of Contract (GCC)

Failure to comply with the above pre-qualification requirements, to include CVs of team members who should meet the criteria above, will lead to the disqualification of the bid.

## 4.2 Phase 2: Technical Proposal and Functional Evaluation

4.2.1 Bidders must submit required information with the bid proposal as outlined in section C above, in the terms of reference and section E below.

4.2.2 The appointed bidder must be able to start on 1 March 2022

4.2.3 All proposals will be further evaluated on functionality where bidders will be expected to score the minimum qualifying points in order to be eligible for further evaluation.

The preference point's claim is in terms of the Preferential Procurement Regulations 2017.

## 4.3 Functionality

Further evaluation and point allocation of preferential points will only be for bidders who comply with the important requirements and technical evaluation criteria including functionality as set out in the table below.

The minimum qualifying threshold for the technical proposal is a functionality score of 70% (70 points). All bids that fail to achieve the minimum qualifying score on functionality will not be considered for further evaluation on Price and BEE.

Bidders will be evaluated as follows:

<b>Relevant Experience in Internal Audit</b> Bidders must demonstrate knowledge and experience in public Sector Generally, Public Entities and Development-centric entities.	<b>Total – 30 points</b>
<b>Experience in general public sector internal audit</b> At least 3 positive, contactable signed reference letters to be submitted from public sector entities where similar service has been conducted. Proof of details of scope coverage, attested to by contactable referees, should be attached for track record.	15 points
<b>Experience in internal audit at development-centric entities</b> At least 3 contactable signed reference letters to be submitted from developmental institutions (not narrowly 'development finance') where similar service has been conducted. Proof of details of scope coverage should be attached for track record.	15 points
<b>Key Personnel</b>	<b>Total – 30 points</b>
Director and Co-Director in Internal Audit with a minimum of 10-15 years' experience each (Detailed CV's, qualification and copies of certificates must be submitted) and proof of IIA certificate. At least one of the two Directors to be a CA (SA) and Registered Auditor (IRBA) (copies of relevant certificates and memberships must be submitted)	14 points
IT Manager specialising in Internal Audit with a minimum of 5-10 years' experience (Detailed CV's, qualification and copies of certificates must be submitted) – and proof of IIA certificate.	8 points



Internal Audit Manager with minimum 5-10 years' experience (Detailed CV's, qualification and copies of certificates must be submitted) - and proof of IIA certificate.	8 points
<b>Proposed Approach</b>	<b>Total-20 points</b>
Able to demonstrate understanding of internal audit process, clear timelines, targets and engagement strategy.	10 points
Able to demonstrate understanding of internal audit process and designing a methodological fit for the specific needs of the ECRDA as a development-centric entity.	10 points
<b>Developmental strategy</b>	<b>Total 20 points</b>
The internal auditor must submit value proposition and strategy to promote development during the tenure of the appointment.	10 points
Competence in Quality assurance per relevant certification and testimonials	10 points
<b>Total</b>	<b>100</b>

#### 4.3 Phase 3: Financial Proposal and B-BBEE evaluation

Bids that achieve the minimum qualifying score of 70% (70 points) for Functionality, (acceptable bids) will be evaluated further in terms of the 80/20 preference point system.

The preference point's claim is in terms of the Preferential Procurement Regulations 2017.

As per the table below, price is evaluated over 80 points and preference points over 20:	<b>80 Points</b>
<b>Price Assessment</b>	80
<b>Preferential Elements</b>	<b>20 Points</b>
B-BBEE Status Level of Contributor	Number of Points
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

## **SECTION E**

### **5. Technical Information**

#### **5.1 Documentation to be submitted by interested Bidder - Specific**

5.1.1 Interested persons (hereinafter referred to as Bidders) are required to respond to the specifications by submitting their detailed responses with supporting documentation as stipulated hereunder. Incomplete and non-compliant responses will not be considered.

5.1.1.1 Bidders must submit proof of registration with Institute of Internal Auditors (IIA).

5.1.1.2 Bidders must submit proof of registration with Independent Regulatory Board for Auditors (IRBA).

5.1.1.3 Bidders must submit CVs of the team to be engaged in performing IA duties.

5.1.1.4 Bidders must submit a statement/strategy of how they intend to contribute to the founding mandate and principles of the ECRDA.

#### **5.2 Contractual Requirements**

5.2.1 The successful bidder is expected to perform internal audit activities in line with the requirements of the Institute of Internal Auditors, the PFMA (PFMA) and the approved ECRDA Internal Audit Charter.

#### **5.3 Consideration of Bids**

5.3.1 There will be no compulsory briefing session for this bid.

5.3.2 Only bidders who have met the prequalification criteria and technical requirements following an assessment of the proposal submitted in response to this RFP will be evaluated further based on price and preference points (B-BBEE).

#### **5.4 Duration of the Contract**

5.4.1 The successful service provider will be appointed for a period of 24 months commencing on 1 March 2022. A Service Level Agreement (SLA) will be entered into between ECRDA and the successful bidder.

**SECTION F**

**Table 1: Compulsory returnable documents that must be submitted for Pre-qualification**

Document that must be submitted	Non-submission will result in disqualification	
Invitation to Bid – SBD 1	Yes	Complete and sign the supplied pro forma document
Authority to sign	Yes	Complete and sign the supplied pro forma document/ Attach resolution
Quotation	Yes	Attach quotation
Pricing Schedule SBD 3.1	Yes	Complete and sign the supplied pro forma document
Declaration of Interest – SBD 4	Yes	Complete and sign the supplied pro forma document
Preference Point Claim Form – SBD 6.1	No	Complete and sign the supplied pro forma document Non-submission will lead to a zero (0) score on BBEE
Declaration of Bidder’s Past Supply Chain Management Practices – SBD 8	Yes	Complete and sign the supplied pro forma document
Certificate of Independent Bid Determination – SBD 9	Yes	Complete and sign the supplied pro forma document
Registration on Central Supplier Database (CSD)	Yes	The bidder must be registered as a service provider on the Central Supplier Database (CSD). If you are not registered proceed to complete the registration of your company prior to submitting your proposal. Visit <a href="https://secure.csd.gov.za/">https://secure.csd.gov.za/</a> to obtain your vendor number. Submit proof of registration.
Completed & signed GCC	Yes	Complete and sign the supplied pro forma document
Original and valid B-BBEE Certificate / Certified Copy or Sworn affidavit	No	Non-submission will lead to a zero (0) score on BBEE

**NB:** Bidders must attach relevant information relating to experience and qualifications as outlined on section C (page 16-18) of the bid document.

The ECRDA does not bind itself to the completeness of the checklist for pre-qualification and technical requirements. As such, it is incumbent on the bidders to ensure that compliance with all the bid requirements is adhered to.

SECTION G: STANDARD BIDDING DOCUMENTS

**ANNEXURE II**  
**INVITATION TO BID**  
**SBD 1**

**PART A**

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)</b>					
BID NUMBER:	RFP 82 – 2021/22	CLOSING DATE:	21 FEBRUARY 2022	CLOSING TIME:	11H00
DESCRIPTION	PROVISION OF INTERNAL AUDIT SERVICES FOR A 2-YEAR PERIOD				
BID RESPONSE DOCUMENTS MUST BE SUBMITTED VIA EMAIL TO <a href="mailto:tenders@ecrda.co.za">tenders@ecrda.co.za</a>					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>		
CONTACT PERSON	Mrs M. Esben		CONTACT PERSON	Ms V. Zazi	
TELEPHONE NUMBER	043 703 6300		TELEPHONE NUMBER	043 7036300/082 558 6299	
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	<a href="mailto:esbenm@ecrda.co.za">esbenm@ecrda.co.za</a>		E-MAIL ADDRESS	<a href="mailto:zaziv@ecrda.co.za">zaziv@ecrda.co.za</a>	
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX]  <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX]  <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR <b>THE GOODS /SERVICES /WORKS OFFERED?</b>	<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)?  YES  NO

DOES THE ENTITY HAVE A BRANCH IN THE RSA?  YES  NO

DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?  YES

NO

DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?  YES  NO

IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?  YES  NO

**IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.**

**PART B  
TERMS AND CONDITIONS FOR BIDDING**

**1. BID SUBMISSION:**

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED– (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.**
- 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).**

**2. TAX COMPLIANCE REQUIREMENTS**

- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER’S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
- 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 2.6 WHERE NO TCS 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: .....

ANNEXURE III  
QUOTATION

BIDDERS MUST ATTACH A QUOTATION ON THIS PAGE.

This information shall be deemed to be material to the award of the Contract.

SIGNED ON BEHALF OF THE BIDDER: .....

**ANNEXURE IV**  
**Pricing Schedule – Firm Prices**  
**SBD 3.1-PROFESSIONAL SERVICES**

NAME OF BIDDER: .....

BID NO.: .....

CLOSING TIME 11:00

CLOSING DATE.....

OFFER TO BE VALID FOR 90 DAYS FROM THE CLOSING DATE OF BID.

**\*\***(ALL APPLICABLE TAXES INCLUDED IN THE RATE PER HOUR)

1. The accompanying information must be used for the formulation of proposals.
2. Bidders must submit a detailed quotation reflecting a total amount for rendering required services.

**\*\***” all applicable taxes” includes value- added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.

3.If successful, will you be able to commence with the project on 01 March 2022? **YES/NO**

4. Are the rates quoted firm for the full period of contract? **YES/NO**



**ANNEXURE V  
SBD 4  
DECLARATION OF INTEREST**

1. Any legal person, including persons employed by the state<sup>1</sup>, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes an advertised competitive bid, a limited bid, a proposal or written price quotation). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-
- The bidder is employed by the state; and/or
  - The legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

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

<b>2.1</b>	Full Name of bidder or his or her representative	
<b>2.2</b>	Identity Number	
<b>2.3</b>	Position occupied in the Company (director, trustee, shareholder <sup>2</sup> , member)	
<b>2.4</b>	Registration number of company, enterprise, close corporation, partnership agreement or trust	
<b>2.5</b>	Tax Reference Number	
<b>2.6</b>	VAT Registration Number	
<b>2.7</b>	The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / PERSAL numbers must be indicated in paragraph 3 below	

2.8.	<b>Are you or any person connected with the bidder presently employed by the state?</b>	YES / NO
2.8.1	<b>If so</b> , furnish the following particulars	
	Name of person / director / trustee / shareholder/ member	
	Name of state institution at which you or the person connected to the bidder is employed	
	Position occupied in the state institution	
	Any other particulars	
2.8.2	<b>If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector?</b>	YES / NO
2.8.2.1	<b>If yes</b> , did you attach proof of such authority to the bid document? <u>(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.</u>	YES / NO
2.8.2.2	<b>If no</b> , furnish reasons for non-submission of such proof:	
2.8.3	Did you or your spouse, or any of the company's directors/trustees/ shareholders / members or their spouses conduct business with the state in the previous twelve months?	YES / NO
2.8.3.1	<b>If so</b> , furnish particulars	

2.8.4	Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid?	YES / NO
2.8.4.1	<b>If so</b> , furnish particulars	
2.8.5	Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between any other bidder and any person employed by the state who may be involved with the evaluation and or adjudication of this bid?	YES / NO
2.8.5.1	<b>If so</b> , furnish particulars	
2.8.6	Do you or any of the directors / trustees / shareholders / members of the company have any interest in any other related companies whether or not they are bidding for this contract?	YES / NO
2.8.6.1	<b>If so</b> , furnish particulars	

<sup>1</sup>“State” means –

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

<sup>2</sup>“Shareholder” means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.

3.

Full details of directors / trustees / members / shareholders:

Full Name	Identity Number	Personal Income Tax Reference Number	State Number / Employee Peral Number

4.

Declaration:

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

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

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of bidder

**ANNEXURE VI  
PREFERENCE POINTS CLAIM FORM  
SBD 6.1**

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

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

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

**1. GENERAL CONDITIONS**

1.1 The following preference point systems are applicable to all bids:

- 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 The value of this bid is estimated to **not exceed** R50 000 000 (all applicable taxes included) and therefore the **80/20** preference point system shall be applicable.

1.3 Preference points for this bid shall be awarded for:

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

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

	POINTS
<b>PRICE</b>	<b>80</b>
<b>B-BBEE STATUS LEVEL OF CONTRIBUTION</b>	<b>20</b>
<b>Total points for Price and B-BBEE must not exceed</b>	<b>100</b>

1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

## 2. DEFINITIONS

- (a) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **“B-BBEE status level of contributor”** means the B-BBEE of an entity based in terms of a code on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **“EME”** means an Exempted Micro Enterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender forms;
- (g) **“prices”** includes all applicable taxes less all unconditional discounts;
- (h) **“proof of B-BBEE status level of contributor”** means:
  - 1) B-BBEE Status level certificate issued by an authorized body or person;
  - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
  - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) **“QSE”** means a qualifying small business enterprise in terms of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (j) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitations, and includes all applicable taxes;

## 3. POINTS AWARDED FOR PRICE

### 3.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

**80/20 or 90/10**

$$P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right) \quad \text{or} \quad P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

- $P_s$  = Points scored for comparative price of bid under consideration
- $P_t$  = Comparative price of bid under consideration
- $P_{\min}$  = Comparative price of lowest acceptable bid

**4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTION**

4.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	8	16
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

**5. BID DECLARATION**

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

**6. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 5.1**

6.1 B-BBEE Status Level of Contribution: = ..... (maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by means of a B-BBEE status level of contributor.

**7. SUB-CONTRACTING**

7.1 Will any portion of the contract be sub-contracted?  
(Tick applicable box)

Yes		No	
-----	--	----	--

7.1.1 If yes, indicate:

i) What percentage of the contract will be subcontracted

.....

ii) The name of the sub-contractor

.....

iii) The B-BBEE status level of the sub-contractor

.....

iv) Whether the sub-contractor is an EME or QSE.

**(Tick applicable box)**

Yes		No	
-----	--	----	--

v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations, 2017:

Designated Group: An EME or QSE which is at least 51% owned by	✓ EME	✓ QSE
Black People		
Black People who are youth		
Black People who are women		
Black People with disabilities		
Black people living in rural or underdeveloped areas		
Cooperative owned by black people		
Black people who are military veterans		
<b>OR</b>		
Any EME		
Any QSE		

**8. DECLARATION WITH REGARD TO COMPANY/FIRM**

8.1 NAME OF COMPANY/FIRM: .....

8.2 VAT REGISTRATION NUMBER: .....

8.3 COMPANY REGISTRATION NUMBER: .....

8.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....  
.....



8.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

8.7 Total number of years the company/firm has been in business: .....

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in paragraph 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
  - (a) disqualify the person from the bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
  - (e) forward the matter for criminal prosecution.

<b>WITNESSES</b>	
1.	.....
2.	.....

.....
<b>SIGNATURE(S) OF BIDDERS(S)</b>
<b>DATE:</b> .....
<b>ADDRESS</b>
.....
.....
.....

**ANNEXURE VII**  
**DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES – SBD 8**

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

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

4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

**CERTIFICATION**

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

CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE AND CORRECT.

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

.....

**Signature**

.....

**Position**

.....

**Date**

.....

**Name of Bidder**

**ANNEXURE VIII**  
**CERTIFICATE OF INDEPENDENT BID DETERMINATION**  
**SBD 9**

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

<sup>1</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

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

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

I, the undersigned, in submitting the accompanying bid:

---

(Bid Number and Description)

in response to the invitation for the bid made by:

---

(Name of Institution)

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

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

6. I have read and I understand the contents of this Certificate;
7. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
8. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
9. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
10. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
  - (a) has been requested to submit a bid in response to this bid invitation;

- (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
- (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

11. 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 consortium<sup>3</sup> will not be construed as collusive bidding.

12. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:

- a) prices;
- b) geographical area where product or service will be rendered (market allocation)
- c) methods, factors or formulas used to calculate prices;
- d) the intention or decision to submit or not to submit, a bid;
- e) the submission of a bid which does not meet the specifications and conditions of the bid; or
- f) bidding with the intention not to win the bid.

13. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.

14. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

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

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

<sup>3</sup> 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.

SECTION G

ANNEXURE IX  
GENERAL CONDITIONS OF CONTRACT

GENERAL CONDITIONS OF CONTRACT

July 2010

GOVERNMENT PROCUREMENT

## 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
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## General Conditions of Contract

### 1. Definitions

1. The following terms shall be interpreted as indicated:
  - 1.1 “Closing time” means the date and hour specified in the bidding documents for the receipt of bids.
  - 1.2 “Contract” means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
  - 1.3 “Contract price” means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.  
  
“Corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
  - 1.4 “Countervailing duties” are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
  - 1.5 “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.
  - 1.6 “Day” means calendar day.
  - 1.7 “Delivery” means delivery in compliance of the conditions of the contract or order.
  - 1.8 “Delivery ex stock” means immediate delivery directly from stock actually on hand.
  - 1.9 “Delivery into consignee’s 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.
  - 1.10 “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.
  - 1.11

- 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 ancillaries 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](http://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 documents contract 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 analysed 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 fulfilment 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 contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

## **21. Delays in the supplier's performance**

21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.

21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.

21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.

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

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



## 22. Penalties

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

## 23. Termination for default

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

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

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

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

General Conditions of Contract (revised July 2010)

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

CONTRACT FORM - RENDERING OF SERVICES

THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SERVICE PROVIDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SERVICE PROVIDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.

PART 1 (TO BE FILLED IN BY THE SERVICE PROVIDER)

1. I hereby undertake to render services described in the attached bidding documents to (name of the institution) ..... in accordance with the requirements and task directives / proposals specifications stipulated in Bid Number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid.
  
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
  - (i) Bidding documents, viz
    - Invitation to bid;
    - Tax clearance certificate;
    - Pricing schedule(s);
    - Filled in task directive/proposal;
    - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2011;
    - Declaration of interest;
    - Declaration of bidder's past SCM practices;
    - Certificate of Independent Bid Determination;
    - Special Conditions of Contract;
  - (ii) General Conditions of Contract; and
  - (iii) Other (specify)
  
3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
  
4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfilment of this contract.
  
5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.

6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT) .....

CAPACITY .....

SIGNATURE .....

NAME OF FIRM .....

DATE .....

WITNESSES

1 .....

2 .....

DATE: .....

**CONTRACT FORM - RENDERING OF SERVICES  
PART 2 (TO BE FILLED IN BY THE PURCHASER)**

1. I..... in my capacity as..... accept your bid under reference number .....dated.....for the rendering of services indicated hereunder and/or further specified in the annexure(s).
2. An official order indicating service delivery instructions is forthcoming.
3. I undertake to make payment for the services rendered in accordance with the terms and conditions of the contract, within 30 (thirty) days after receipt of an invoice.

DESCRIPTION OF SERVICE	PRICE (ALL APPLICABLE TAXES INCLUDED)	COMPLETION DATE	B-BBEE STATUS LEVEL OF CONTRIBUTION	MINIMUM THRESHOLD FOR LOCAL PRODUCTION AND CONTENT (if applicable)
				N/A

4. I confirm that I am duly authorized to sign this contract.

SIGNED AT .....ON.....

NAME (PRINT) .....

SIGNATURE .....

OFFICIAL STAMP

**WITNESSES**

1. ....

2. ....

DATE .....