



arts & culture

Department:
Arts and Culture
REPUBLIC OF SOUTH AFRICA

202 Sechaba Building
Cnr. Madiba and Paul Kruger Street
Pretoria,0001

Private Bag X9015, Cape Town, 8000, South Africa
Tel: +27 (0)21 461 3135/3147
Fax: +27 (0)21 461 4510 • www.dac.gov.za

Enquiries : Mr. Tuelo Thubisi/ Mr. S Ndlovu
Tel : 072 604 7259/ 012 441 3028

Reference : DAC 07/18-19

APPOINTMENT OF A SERVICE PROVIDER FOR INSTALLATION OF FLAGS AND FLAGPOLES AS PART OF PHASE FIVE OF FLAG IN EVERY SCHOOL PROJECT FOR THE 2018/2019 FINANCIAL YEAR.

REQUIRED BY: DEPARTMENT OF ARTS & CULTURE

1. Kindly furnish the Department with a bid for the services shown on the attached forms.
2. The General Conditions of Contract (GCC) as well as the SBD1, SBD2, SBD3.3, SBD 4, SBD 6.1, SBD8 and SBD9 forms are attached for completion.
3. These forms must be returned with your bid. Bid documents must be submitted on a Separate envelope stipulating the following information: Name and Address of the Bidder, Bid Number and Closing Date of the Bid. The Budget Proposal must also be submitted on a separate envelope where necessary. **Interested parties to submit an original document plus 4 copies of the original document.**
4. All bids forwarded by postal services must be addressed to: **The Director-General, Department of Arts and Culture, Sechaba Building, 202 Madiba Street, Pretoria, 0001**, attention: Acting Director Supply Chain Management, and reach this address no later than the closing date and time. Alternatively, bids may be deposited by hand at the **Department of Arts and Culture, Sechaba Building, Cnr Paul Kruger & Madiba Streets, Pretoria.**
5. **Compulsory briefing session:** 29 June 2018 at 11:00am at National Archives and Records Service of South Africa Building, 24 Hamilton Street, Arcadia Pretoria

MR SIPHO NDLOVU
ACT. DIRECTOR; SUPPLY CHAIN MANAGEMENT

DATE: 22/06/2018

Department of Arts and Culture · Departement van Kuns en Kultuur · uMnyango wezoBuciko namaSiko
ISebe lezoBugcisa cubeko · Lefapha la Bonono le Setho · Knono ya Bokgabo le Setišo · Lefapha la
Botsweretshi le Setso liTiko le Tebuciko nemaSiko · Ndzawulo ya Vutshila ni Mfuwo · Mhasho wa Vhutsila
na Mvelele · umNyango wezoukgwhari namaSiko

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (DEPARTMENT OF ARTS AND CULTURE)					
BID NUMBER:	DAC 07/18-19	CLOSING DATE:	13 JULY 2018	CLOSING TIME:	11:00AM
DESCRIPTION	APPOINTMENT OF A SERVICE PROVIDER FOR INSTALLATION OF FLAGS AND FLAGPOLES AS PART OF PHASE FIVE OF FLAG IN EVERY SCHOOL PROJECT FOR THE 2018/2019 FINANCIAL YEAR				
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).					
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
			TCS PIN:		OR CSD No:
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]			<input type="checkbox"/> Yes	B-BBEE STATUS LEVEL SWORN AFFIDAVIT	<input type="checkbox"/> Yes
IF YES, WHO WAS THE CERTIFICATE ISSUED BY?			<input type="checkbox"/> No		<input type="checkbox"/> No
AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) AND NAME THE APPLICABLE IN THE TICK BOX			<input type="checkbox"/>	AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)	
			<input type="checkbox"/>	A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS)	
			<input type="checkbox"/>	A REGISTERED AUDITOR	
			NAME:		
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/SWORN AFFIDAVIT(FOR EMEs& QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?			<input type="checkbox"/> Yes <input type="checkbox"/> No	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	
[IF YES ENCLOSE PROOF]			[IF YES ANSWER PART B:3 BELOW]		
SIGNATURE OF BIDDER				DATE	
CAPACITY UNDER WHICH THIS BID IS SIGNED (Attach proof of authority to sign this bid; e.g. resolution of directors, etc.)					
TOTAL NUMBER OF ITEMS OFFERED			TOTAL BID PRICE (ALL INCLUSIVE)		
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:			TECHNICAL INFORMATION MAY BE DIRECTED TO:		
DEPARTMENT/ PUBLIC ENTITY			CONTACT PERSON		
CONTACT PERSON			TELEPHONE NUMBER		
TELEPHONE NUMBER			FACSIMILE NUMBER		
FACSIMILE NUMBER			E-MAIL ADDRESS		
E-MAIL ADDRESS					

PART B TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:								
<p>1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.</p> <p>1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE</p> <p>1.3. BIDDERS MUST REGISTER ON THE CENTRAL SUPPLIER DATABASE (CSD) TO UPLOAD MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS; AND BANKING INFORMATION FOR VERIFICATION PURPOSES). B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.</p> <p>1.4. WHERE A BIDDER IS NOT REGISTERED ON THE CSD, MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS MAY NOT BE SUBMITTED WITH THE BID DOCUMENTATION. B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.</p> <p>1.5. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER LEGISLATION OR SPECIAL CONDITIONS OF CONTRACT.</p>								
2. TAX COMPLIANCE REQUIREMENTS								
<p>2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.</p> <p>2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.</p> <p>2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.</p> <p>2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID.</p> <p>2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / PIN / CSD NUMBER.</p> <p>2.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.</p>								
3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS								
<table style="width: 100%; border: none;"> <tr> <td style="width: 70%;">3.1. IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?</td> <td style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</td> </tr> <tr> <td>3.2. DOES THE BIDDER HAVE A BRANCH IN THE RSA?</td> <td style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</td> </tr> <tr> <td>3.3. DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA?</td> <td style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</td> </tr> <tr> <td>3.4. DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA?</td> <td style="text-align: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</td> </tr> </table> <p>IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN, IT IS NOT A REQUIREMENT TO OBTAIN A TAX COMPLIANCE STATUS / TAX COMPLIANCE SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.</p>	3.1. IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	<input type="checkbox"/> YES <input type="checkbox"/> NO	3.2. DOES THE BIDDER HAVE A BRANCH IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO	3.3. DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO	3.4. DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.1. IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	<input type="checkbox"/> YES <input type="checkbox"/> NO							
3.2. DOES THE BIDDER HAVE A BRANCH IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO							
3.3. DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO							
3.4. DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO							

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

TAX CLEARANCE CERTIFICATE REQUIREMENTS

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

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

PRICING SCHEDULE
(Professional Services)

NAME OF BIDDER:	BID NO.: DAC 07/18-19
CLOSING TIME 11:00	CLOSING DATE : 13 JULY 2018

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

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY **(ALL APPLICABLE TAXES INCLUDED)
---------	-------------	--

1. The accompanying information must be used for the formulation of proposals.
2. Bidders are required to indicate a ceiling price based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project. R.....

3. PERSONS WHO WILL BE INVOLVED IN THE PROJECT AND RATES APPLICABLE (CERTIFIED INVOICES MUST BE RENDERED IN TERMS HEREOF)

4. PERSON AND POSITION	HOURLY RATE	DAILY RATE
.....	R.....	.....
.....	R.....	.....
.....	R.....	.....
.....	R.....	.....
.....	R.....	.....

5. PHASES ACCORDING TO WHICH THE PROJECT WILL BE COMPLETED, COST PER PHASE AND MAN-DAYS TO BE SPENT

.....	R.....	..... days
.....	R.....	..... days
.....	R.....	..... days
.....	R.....	..... days

5.1 Travel expenses (specify, for example rate/km and total km, class of airtravel, etc). Only actual costs are recoverable. Proof of the expenses incurred must accompany certified invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
.....	R.....
.....	R.....
.....	R.....
.....	R.....

TOTAL: R.....

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

Name of Bidder:

5.2 Other expenses, for example accommodation (specify, eg. Three star hotel, bed and breakfast, telephone cost, reproduction cost, etc.). On basis of these particulars, certified invoices will be checked for correctness. Proof of the expenses must accompany invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
.....	R.....
.....	R.....
.....	R.....
.....	R.....
TOTAL: R.....			

- 6. Period required for commencement with project after acceptance of bid
.....
- 7. Estimated man-days for completion of project
.....
- 8. Are the rates quoted firm for the full period of contract? *YES/NO
- 9. If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index.
.....
.....
.....

***[DELETE IF NOT APPLICABLE]**

Any enquiries regarding bidding procedures may be directed to the –

Mr. T Thubisi
Department of Arts and Culture
Sechaba Building
202 Madiba Street
Cnr Madiba Street and Paul Kruger Street
Pretoria
Tel: 072 604 7259

Or for technical information –
Mr. Mava Mothiba
Tel: 082 903 4143
mavam@dac.gov.za



arts & culture

Department:
Arts and Culture
REPUBLIC OF SOUTH AFRICA

ANNEXURE B

SBD 4

DECLARATION OF INTEREST

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

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

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

2.1 Full Name of bidder or his or her representative:

2.2 Identity Number:.....

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

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

2.5 Tax Reference Number:

2.6 VAT Registration Number:

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

¹"State" means –

(a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance

- Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

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

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

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member:

Name of state institution at which you or the person connected to the bidder is employed :

Position occupied in the state institution:

Any other particulars:

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

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

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

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

.....

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

2.8.1 If so, furnish particulars:

.....

2.9 Do you, or any person connected with the bidder, have **YES / NO**

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

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2011

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, 2011.

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 system shall be applicable.

1.3 Preference points for this bid shall be awarded for:

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

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

	POINTS
1.3.1.1 PRICE	.....
1.3.1.2 B-BBEE STATUS LEVEL OF CONTRIBUTION	.....
Total points for Price and B-BBEE must not exceed	100

1.4 Failure on the part of a bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS) or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or an Accounting Officer as contemplated in the Close Corporation Act (CCA) together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

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

2. DEFINITIONS

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

- 2.17 “**trust**” means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- 2.18 “**trustee**” means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

3. ADJUDICATION USING A POINT SYSTEM

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

4. POINTS AWARDED FOR PRICE

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

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

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

Where

P_s = Points scored for comparative price of bid under consideration

P_t = Comparative price of bid under consideration

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

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

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

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

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

6. BID DECLARATION

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

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

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

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

8 SUB-CONTRACTING

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

8.1.1 If yes, indicate:

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

9 DECLARATION WITH REGARD TO COMPANY/FIRM

9.1 Name of company/firm :

9.2 VAT registration number :.....

9.3 Company registration number
:

9.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

9.6 COMPANY CLASSIFICATION

- Manufacturer
- Supplier
- Professional service provider

- Other service providers, e.g. transporter, etc.
[TICK APPLICABLE BOX]

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

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

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

WITNESSES:

1.

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

2.

DATE:.....
ADDRESS:.....
.....
.....



DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

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

SBD 8

CERTIFICATION

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

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

CERTIFICATE OF INDEPENDENT BID DETERMINATION

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

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

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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

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

I certify, on behalf of: _____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

³ Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

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

.....
Signature	Date
.....
Position	Name of Bidder



arts & culture

Department:
Arts and Culture
REPUBLIC OF SOUTH AFRICA

TERMS OF REFERENCE

DAC07/18-19

**APPOINTMENT OF A SERVICE PROVIDER FOR INSTALLATION OF FLAGS
AND FLAGPOLES AS PART OF PHASE FIVE OF FLAG IN EVERY SCHOOL PROJECT
FOR THE 2018/2019 FINANCIAL YEAR**

CLOSING DATE AND TIME OF BID:

13 July 2018 AT 11H00

COMPULSORY BRIEFING SESSION:

29 June 2018 AT 11:00

**National Archives and Records Service of South Africa Building, 24 Hamilton Street,
Arcadia, Pretoria, 0001**

***(Late arrivals after 11:30 will not be allowed to participate and their bids shall be
declared non-responsive)***

BID VALIDITY PERIOD: 90 DAYS

**APPOINTMENT OF A SERVICE PROVIDER FOR INSTALLATION OF FLAGS
AND FLAGPOLES AS PART OF PHASE FIVE OF FLAG IN EVERY SCHOOL PROJECT
FOR THE 2018/2019 FINANCIAL YEAR**

1. INTRODUCTION

The Department of Arts and Culture (DAC) seeks to appoint a qualified service provider to install 1000 flags and flagpoles as part of the Flag in Every School Project – Phase Five.

2. BACKGROUND

2.1 These Terms of Reference describe the objectives, scope of work, deliverables, roles and responsibilities, and time frame/period for this project.

2.2 The Department of Arts and Culture (DAC) is embarking on Phase Five of the Flag in Every School Project. This project is aimed at the installation of Flags and Flagpoles in schools in the Republic of South Africa. This project is seeking for the services of Flags and Flagpoles supplier who will distribute and install a total of 1000 Flags and Flagpoles in selected schools in the 9 provinces over a 6 months contract. The distribution of flags to the provinces in the 6 months contract will be based on a list of Schools that need flags as provided by Partner Departments.

2.3 The Service Providers are expected to start the installation immediately after the appointment contract is finalised. During the contract the service provider will service 1000 schools across all provinces, with a minimum of 100 schools serviced in each province. The Service Provider will be expected to conclude the project before the within 6 months after appointment.

3. SCOPE AND EXTENT OF THE TENDER / TASK DIRECTIVE

The Department of Arts and Culture requires the services of a duly experienced and knowledgeable service provider in undertaking the following tasks:

	TASKS	YES/NO/ NOTED
3.1	TASK SPECIFICATION	
3.1.1	<p>The Department seeks a service provider who will provide the following specifications within a projected project period of 6 months from date of appointment:</p> <ul style="list-style-type: none"> • Supply and installation of 1000 SABS Approved South African National Flags (Size: 180cm x 120cm) (Standard Size) (manufactured within South Africa) • Supply and installation of 6 Meter Aluminium Flag Poles (6m) (this includes distribution and installation of the Flag Poles and the Flags schools in the selected Provinces during the duration of the contract) <p>All the items must locally manufactured and must meet the Acceptable Quality Level (AQL) stipulated in the standard published by the SABS for the National Flag in the SANS 1212:2005 Edition 2.4.</p>	
3.1.2	<p>SPECIFICATIONS FOR ALUMINIUM FLAGPOLE</p> <p>The material used for flagpoles should be of the best quality and should last many years with the least maintenance.</p> <p>The following Material should be used.</p> <p>Top section</p> <p>5meter (m) aluminium round tube with a wall thickness of 2.54millimetres (mm) and a diameter not less than 50.8mm should be used.</p> <p>Material must conform to required strength and therefore to be of a T6061 material which is a special process to assure the elastically of the flagpole. The tube should be ≥50.8mm (diameter) x ≥2.54mm (wall thickness) x 5m (length) aluminium round tube.</p>	

	TASKS	YES/NO/ NOTED
	<p>Bottom section</p> <p>2meter (m) aluminium round tube with a wall thickness of 3.92millimetres (mm). The tube should be ≥60.32mm (diameter).</p> <p>The bottom section should also have the same specs of manufacturing as the top section as a T6061 material. The bottom tube is slightly bigger than the top tube so that the top tube can fit into the bottom tube when they are joined.</p> <p>Cap</p> <p>A cap especially spun out of aluminium to cap the top of the flag pole to prevent rain water from entering the flagpole. the diameter size to be 100mm.</p> <p>Eyebolt</p> <p>A plated eyebolt and nut of size 6x60mm to be used to attach the Cap and the pulley to the flagpole.</p> <p>Cleat</p> <p>The cleat will be made of 25x3mm flat aluminium bar in a length of 250mm and bended to required shape.</p> <p>Pulley</p> <p>Overall dimensions will be Width 30mm length 60mm cast out of cast iron fitted with a plastic inner real to accommodate the rope and prevent rust creeping in.</p> <p>Bolts and nuts</p> <p>Use two sets of 8mmx70mm plated (prevent rust) bolts and nuts to join the two tubes (bottom and top).</p> <p>Rope</p> <p>12m polyester rope to be used with a diameter of 4.5 mm</p>	
3.1.3	<p>The Service Providers will install the 6m Flagpoles and the SABS approved Flags at appropriate points within the selected schools as per the provided list.</p>	

	TASKS	YES/NO/ NOTED
3.1.4	A final selection of the Service Provider will be done by the Department of Arts and Culture.	
3.1.5	The Service Providers must submit a proposal giving full details of the logistic plans in place to enable them to respond to the request for flag installations across the country.	
3.1.6	The Service Provider will be expected to submit monthly progress reports to the Project Manager in DAC to ensure that all areas regarding a smooth delivery are monitored and evaluated regularly.	
3.1.7	An initial meeting between the Department of Arts and Culture and the Service Provider will be scheduled soon after the appointment. Follow-up meetings will be held as deemed necessary as part of the monitoring and evaluation of the project. The final meeting will take place after the completion of the project.	
3.2	FINANCIAL ARRANGEMENTS	
3.2.1	<p>A breakdown of the costs for the following should be provided:</p> <ul style="list-style-type: none"> • SABS Approved South African National Flag (Size: 180 x 120cm (Standard Size) X 1000 • 6 Meter Aluminium Flag Pole (6m) X 1000 • Installations (<i>of the Flag Poles and the Flags at the selected schools in the all provinces</i>) X 1000 <p>All the items must locally manufactured and must meet the Acceptable Quality Level (AQL) stipulated in the standard published by the SABS for the National Flag in the SANS 1212:2005 Edition 2.4.</p>	
3.2.2	The Service Provider is not allowed to claim 50% upfront payment for services not rendered.	

APPOINTMENT OF A SERVICE PROVIDER FOR INSTALLATION OF FLAGS AND FLAGPOLES AS PART OF PHASE
FIVE OF FLAG IN EVERY SCHOOL PROJECT FOR THE 2018/2019 FINANCIAL YEAR

	TASKS	YES/NO/ NOTED
	<p>As is the policy of government under the PFMA, makes provision that no advance payments to any service provider is allowed, i.e. payment will be made within 30 days after the service has been rendered.</p> <p>The Service Level Agreement can allow tranche payments for parts of the project scope that are completed and are invoiced.</p>	
3.3	TIMING	
	<p>The Service Provider will be expected to deliver the service within a projected project period of 6 months from date of appointment.</p>	

4. LEGISLATIVE AND REGULATORY FRAMEWORK

4.1 This bid and all contracts emanating from this bid will be subject to the General Conditions of Contract issued in 2010 in accordance with of the Treasury Regulations 16A, published in terms of the Public Finance Management Act, 1999 (Act 1 of 1999). The Special Conditions of Contract are supplementary to that of the General Conditions of Contract of 2010. Where, however, the Special Conditions of Contract are in conflict with the General Conditions of Contract, the Special Conditions of Contract takes precedence.

5. SPECIAL CONDITIONS OF CONTRACT

5.1 As per the Preferential Procurement Regulations, 2017, in order to advance certain designated groups, the successful service provider (s) will have to meet the following one or more requirement:

- (a) Bidders must have at least a contributor level 1 or 2 B-BBEE status.
- (b) An EME (Exempted Micro Enterprise) or QSE (Qualifying Small Business Enterprise)
- (c) Tender subcontracting a minimum of 30% to – **subcontracting agreement is required (as a proof)**
 - an EME or QSE which is at least 51% owned by black people;
 - an EME or QSE which is at least 51% owned by black people who are youth;
 - an EME or QSE which is at least 51% owned by black people who are women;
 - an EME or QSE which is at least 51% owned by black people with disabilities;
 - an EME or QSE which is at least 51% owned by black people living in rural or underdeveloped areas or townships;
 - an EME or QSE which is at least 51% owned by black people who are military veterans;
 - an EME or QSE

A tender that fails to meet any of the above pre-qualifying criteria stipulated in the tender documents will be disqualified.

5.2 The Department may investigate possible fronting by any bidder and any bidder found to be fronting will be disqualified and blacklisted.

- 5.3 The service provider may not recruit or shall not attempt to recruit an employee of the Department of Arts and Culture for purposes of preparation of the bid or for the duration of the execution of this contract or any part thereof.
- 5.4 All bidders are required to submit details of shareholding status as follows: shareholder certificate with the names of directors and percentage of ownership and ID copies.
- 5.5 The service provider shall endeavour to ensure that the expenditure on the employment of temporary workers prioritises targeted labour as women and youth within the provinces where work is undertaken.

6. EVALUATION STAGES

- 6.1 The bid evaluation process consists of several stages that are applicable as defined in the table below:

Stage	Description	Applicable for this bid
Stage 1 A	Compulsory briefing session.	Yes
Stage 1 B	Initial screening process to check compliance with bid requirements.	Yes
Stage 1 C	Pre-qualification criteria.	Yes
Stage 2	Functionality requirement evaluation.	Yes
Stage 3	Price and BBBEE evaluation.	Yes

6.1.1 Stage 1 A:

Verification of service provider (s) attendance at compulsory briefing session. Service provider (s) who fail to attend the compulsory briefing session will be automatically disqualified

6.1.2 Stage 1 B:

Verification of service provider (s) compliance with bid requirements and initial screening process.

6.1.3 Stage 1 C:

Service provider (s) **must** indicate their compliance with the following pre-qualification requirements in terms of Regulation 4 of the Preferential Procurement Regulations 2017 and provide a proof.

- Original and Valid Sworn Affidavit signed by a Commissioner of Oaths and the letter from the Accounting Firm or Auditors (EME or QSE).
- B-BBEE certificates by SANAS Accredited Agencies.
- Failure to submit a proof requested will invalidate the bid.

The Department will apply the following qualifying criteria to advance designated groups. Only tenderers meets the following Pre-Qualification criteria can bid on this tender.

Pre-qualification criteria	Comply	Do not comply
(a) Bidders must have at least a contributor level 1 or level 2 B-BBEE status		

A tenderer that fails to meet any of the above pre-qualifying criteria stipulated in the tender documents will be disqualified.

6.1.4 Stage 2:

The Technical proposal will be evaluated out of 100 points with a threshold of 70 points. Bidders that score less than minimum of 70 points will be disqualified. Bidders must score a minimum of 70 or more points to qualify for further evaluation on price and preference points.

6.1.5 Stage 3:

Bids will then be evaluated in accordance with the prescripts of the Preferential Procurement Policy Framework Act (PPPFA) and the associated Preferential Procurement Regulations of 2017, which stipulate a 80/20 preference point system is applicable up to a rand value of R50 million (all applicable taxes included).

- The following criteria will be used in particular as the criteria for appointment, apart from those laid down in the Preferential Procurement Regulations, 2017, pertaining to the Preferential Procurement Policy Framework Act 5 of 2000.

- Where BBBEE points are claimed, a certified copy of BBBEE certificate must be attached. Only SANAS accredited certificates will be taken into consideration or sworn affidavits (EME or QSE) must be valid at the time of the closing of the tender.
- The points for this bid are allocated as follows:

No	Components	Points
1.	Price	80
2.	Preferential points: BBBEE	20
	Total	100

7. EVALUATION PROCESS

- 7.1 The 80/20 preference point system in terms of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) shall apply. The lowest acceptable bid will score 80 points for price and remaining 20 points for B-BBEE status level of contribution.
- 7.2 Prospective bidders will have to score at least 60 out of 100 points allocated for functionality before the company's proposal will be considered for pricing.

8. BID REQUIREMENTS

- **General requirements**

The following is required of bidders and should be submitted to the department as part of the bid submission:

- 8.1 Company profile.
- 8.2 All Bidders must be registered on the National Treasury Central Supplier Database (CSD) and must attach a copy of the most recent report to the tender document.

- 8.3 The tax status on CSD must be compliant, as Department is unable to award a contract to a company whose tax affairs are not in order as determined by SARS. Bidders whose tax matters have expired or compliance status is invalid will be disqualified. **Note that it is no longer a requirement for bidders to submit hard copies of tax clearance certificates as compliance to tax matters can be assessed and verified on the CSD report.**
- 8.4 **Original and valid and / or certified** copy of B-BBEE status level certificate bearing SANAS logo or registered auditor. Failure to submit a valid B-BBEE certificate will result in zero preference points being awarded for B-BBEE. B-BBEE certificates or sworn affidavits must be valid at the time of the closing of the tender.
- 8.5 Original Company Resolution or Letter of authority or Letter of appointment authorizing the signatory of the Entity to sign the contract with the Department.
- 8.6 Valid contact details including e-mail address.
- 8.7 Certified ID copies of all Directors.
- 8.8 At least three reference letters must be provided, as well as an indication of experience with similar projects.
- 8.9 Bidders are requested to provide one original and 4 copies of all documents.
- 8.10 Companies, who registered for VAT, should include VAT on their costing.
- 8.11 Any other details that may be relevant in respect of the tender evaluation criteria described above:

Technical requirements

- A detailed proposal including:
 - (a) A Comprehensive Project plan, with resource plan and schedule
 - (b) Capacity and experience of company; with references
 - (c) Technical procedure of correct flag and flagpole installation
 - (d) A business plan or proposal will be required indicating demonstrated experience and understanding of the project as per evaluation criteria.

- 8.12 All bidders are required to submit details of Shareholder status as follows:
- Shareholder certificates with the names of Directors and percentage of ownership.
 - Identity Documents of all Shareholders.

9. EVALUATION CRITERIA

- All bids duly lodged will be evaluated by a panel first on functionality then price. The evaluation criteria are shown below:
- For purposes of comparison and in order to ensure meaningful evaluation, bidders are requested to furnish detailed information in substantiation of compliance to each of the evaluation criteria mentioned below.

	Criteria	Value Rating Points
9.1	<p>CAPACITY TO DELIVER ON ALL PROJECT REQUIREMENTS AS PER TERMS OF REFERENCE</p> <p>All bidders must have the relevant knowledge, resources and capacity to deliver the services required.</p> <p>The following must be submitted in order to substantiate the above:</p>	
9.1.1	<p>All bidders must have more than 1-year relevant experience in flag and flagpole installation services with special emphasis on the schools market. In order to substantiate the above:</p> <p>A list must be provided of all previous and current relevant projects. Letters of contactable reference must be provided of previous or existing clients.</p> <p>(a) < 1 year = 0-5 points (b) 1 - 3 years = 6-10 points (c) 3 - 5years = 11-15 points (d) 5+ years = 16 – 20 points</p>	20

APPOINTMENT OF A SERVICE PROVIDER FOR INSTALLATION OF FLAGS AND FLAGPOLES AS PART OF PHASE
FIVE OF FLAG IN EVERY SCHOOL PROJECT FOR THE 2018/2019 FINANCIAL YEAR

	Criteria	Value Rating Points
9.1.2	<p>Comprehensive Project Plan outlining and describing the work to be carried out from inception to conclusion of the project:</p> <p>(a) Fair = 0-7 points (b) Good = 8-14 points (c) Very Good = 15-20 points</p>	20
9.1.3	<p>Detailed Project Schedule showing realistic understanding of the scope of the project, the technical requirements of the project and an understanding of the schools environment.</p> <p>(a) Fair = 0-5 points (b) Good = 6-10 points (c) Very Good = 11-15 points</p>	15
9.1.4	<p>Project Risk Management Plan.</p> <p>(a) Fair = 0-5 points (b) Good = 6-10 points (c) Very Good = 11-15 points</p>	15
9.2	<p>Technical Knowledge</p> <p>Detailed Plan to be provided outlining the details of rolling out the installations (technical illustrations and pictures can be included)</p> <p>i. Technical procedure of correct flag and flagpole installation. ii. Resources needed to correctly do the installations. iii. Procedures in approaching the task at each site.</p> <p>(a) Fair = 0-10 points (b) Good = 11-20 points (c) Very Good = 21-30 points</p>	30
	TOTAL	100

10. CONFIDENTIALITY

- 10.1 No information or documentation may be used for any other purpose other than providing for a tender proposal to the Department, and no copies of any document may be made, except with prior written approval from the Department.
- 10.2 The successful bidders and staff will be required to sign a non-disclosure agreement.

11. INTELLECTUAL PROPERTY AND OWNERSHIP

- 11.1 Ownership and copyright of all documentation developed during the period of the contract will be vested in the Department of Arts and Culture.
- 11.2 All intellectual property rights relating to any work produced by the service provider in relation to the performance of this contract shall belong to the Department and may not be used for any other purpose by the service provider. The service provider shall give the Department all assistance in protecting such intellectual property rights. All material, in paper, electronic or any recorded format produced by the service provider in the performance of this contract shall remain the property of the Department of Arts and Culture and must be handed over to the Department on termination of the contract.
- 11.3 All service providers undertake not to infringe the intellectual property of third parties. Should any action or claim be instituted against the Department emanating from an infringement of intellectual property or an alleged infringement of intellectual property, the service providers hereby indemnify the Department against such claims or actions as well as all costs (including legal costs on an attorney and client scale).

12. CONTRACTUAL ARRANGEMENT

- 12.1 The service provider is required to enter into a Service Level Agreement with the Department of Arts and Culture to perform all functions as set out in the project Specification or Terms of Reference and National Treasury General Conditions of Contract of 2010.

13. FINANCIAL IMPLICATIONS

- 13.1 All bidders must provide a cost breakdown that should be part of a Business Plan as per Paragraph 3.1.1 of the Task Directive above.
- 13.2 No service will be rendered to the Department before an official order has been issued to the supplier or service provider.
- 13.3 The service provider should be aware that DAC only pays after the services have been rendered.
- 13.4 Payments will be done within 30 days of receipt of an invoice with all required supporting documents as per the Service Level Agreement;
- 13.5 Payments will be made by the Department after the service provider has submitted an invoice supported by all requisite documents; including but not limited to; Portfolio of Evidence for all the work that was done and the required reports.

14. CLIENT BASE

- 14.1 The Department of Arts and Culture reserves the right to contact references during the evaluation and adjudication process to obtain information.

15. COMMUNICATION

- 15.1 The Department of Arts and Culture may communicate with bidders for, among others, where bid clarity is sought, to obtain information or to extend the validity period.

16. PRESENTATION

- 16.1 The Department of Arts and Culture may request presentations and or interviews from short-listed bidders as part of the bid process. The Department may also request samples of material to be used to assess if it meets the requirements as outlined in the TOR.

17. **SUPPLIER DUE DILIGENCE**

- 17.1 The State reserves the right to conduct supplier due diligence prior to final award or at any time during the contract period. **Bidders must note that, the Department will conduct verification on the information submitted and any misrepresentation will result in an automatic disqualification.**

18. **CONFLICT OF INTEREST**

- 18.1 The bidder or bidders group must submit a document (you may include it in your covering letter), stating whether any of its employees have any interest in the Department or whether any of Department's personnel have any interest in the bidders or affiliated business.

19. **PACKAGING OF BID**

- 19.1 Bidders to arrange the Standard Bidding Documents (SBDs) in your submission numerically and orderly.

20. **COMPULSORY BRIEFING SESSION**

(Bidders failing to attend both the Compulsory Briefing Session and the Compulsory Site Visit will be disqualified automatically and their bids will be regarded as non-responsive)

20.1 Compulsory Briefing Session

Date : **29 June 2018**

Time : 11:00 am to 12:00 pm (Bidders arriving 30 minutes late will be not allowed into the briefing session.)

Venue : Department of Arts and Culture (DAC), National Archives and Records Service of South Africa Building, 24 Hamilton Street, Arcadia, Pretoria, 0001

21. SUBMISSION OF BID DOCUMENTS

- 21.1 Bidders are advised to ensure that bids are submitted allowing sufficient time for any unforeseen events that may delay the delivery of the bid and time to access the premises because of security arrangements when entering the department main entrance.
- 21.2 All bidders are required to complete a bid register fully, when submitting bid documents. The Bid register is available at the below-mentioned address.
- 21.3 Bidders should deposit their documents into the tender box available on the Ground Floor reception area by **11H00** (13 July 2018) at the address below:
**Department of Arts and Culture, Sechaba House,
202 Madiba Street, Cnr Madiba and Paul Kruger Streets, Pretoria.**

22. COST OF BIDDING

- 22.1 The bidder shall bear all costs associated with the preparation and submission of its bid and the Department, will no case be held responsible or liable for these costs, regardless of the conduct or outcome of the tender process. The bidder will not be entitled to claim for travel and subsistence expenses. If such expenses are applicable, these charges must be included in the bid price.

23. PRICE OR FEES NEGOTIATION

- 23.1 The Department may negotiate the price or fees with the preferred bidder/s during a competitive bidding process.

24. LATE BIDS

- 24.1 Bids are received at the address indicated above. Bids received after the closing date and time will not be accepted for consideration and will be returned unopened to the bidder. Bids documents should be submitted before 11:00 on the closing date of the tender.

25. **BID AND TECHNICAL ENQUIRIES / CLARIFICATION OF TENDER DOCUMENTS**

- 25.1 The Department will respond in email to any request for clarification of the tender documents which it receives **no later than one (1) week prior to the deadline for submission of bids prescribed by the Department.** All enquiries related to the technical content of the Terms of Reference as well as the bid enquires may be directed **in writing** to the officials listed below:

For Bid Enquiries
Mr Tuelo Thubisi
Tel: (012) 441 3671 / 072 604 7259
Email: Tuelot@dac.gov.za
Mr. S Ndlovu
Tel: (012) 441 3089
Email: Siphon@dac.gov.za
For Technical Enquiries:
Ms Mava Mothiba
Tel: (082) 903 4143
Email: mavam@dac.gov.za

THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT

July 2010

GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT
July 2010

NOTES

The purpose of this document is to:

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

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

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

TABLE OF CLAUSES

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

General Conditions of Contract

1. Definitions

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

RSA.

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

obligations of the supplier covered under the contract.

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

2. Application

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

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

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

3. General

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

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

4. Standards

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

5. Use of contract documents and information; inspection.

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

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

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

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

6. Patent rights

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

7. Performance security

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

8. Inspections, tests and analyses

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

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

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

9. Packing

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

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

10. Delivery and documents

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

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

11. Insurance

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

12. Transportation

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

13. Incidental services

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

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

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

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

14. Spare parts

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

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

15. Warranty

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

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

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

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

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

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

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

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

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

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

22. Penalties

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

23. Termination for default

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

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

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

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

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

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

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

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

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

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

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

24. Anti-dumping and countervailing duties and rights

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

may be due to him

25. Force Majeure

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

26. Termination for insolvency

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

27. Settlement of Disputes

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

28. Limitation of liability

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

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

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