



arts & culture

Department:
Arts and Culture
REPUBLIC OF SOUTH AFRICA

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

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Enquiries : Mr. Tuelo Thubisi/ Ms. R Zulu
Tel : 012 441 3504/ 012 441 3089

Reference : DAC 14/19-20

THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT A FEASIBILITY STUDY TOWARDS THE DEVELOPMENT OF A MONUMENTAL FLAG AND FLAG POLE.

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 five (5) 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 House, 202 Madiba Street, Pretoria, 0001**, attention: 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 House, Cnr Paul Kruger & Madiba Streets, Pretoria.**
5. **Compulsory briefing session will be on the 27 February 2020 at 11:00am.
Venue: 202 Sechaba House, Cnr Paul Kruger and Madiba Str, Pretoria, 0001**

MS REFILWE ZULU
DIRECTOR: SUPPLY CHAIN MANAGEMENT

DATE: 14/02/2020

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (DEPARTMENT OF ARTS AND CULTURE)					
BID NUMBER:	DAC 14/19-20	CLOSING DATE:	13 MARCH 2020	CLOSING TIME:	11:00AM
DESCRIPTION	THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT A FEASIBILITY STUDY TOWARDS THE DEVELOPMENT OF A MONUMENTAL FLAG AND FLAG POLE.				
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)					
SECHABA HOUSE					
202 MADIBA STREET					
CNR MADIBA AND PAUL KRUGER STREET					
PRETORIA					
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 <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT <input type="checkbox"/> Yes <input type="checkbox"/> No	
IF YES, WHO WAS THE CERTIFICATE ISSUED BY?					
AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) AND NAME THE APPLICABLE IN THE TICK BOX		<input type="checkbox"/> AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)			
		<input type="checkbox"/> A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS)			
		<input type="checkbox"/> A REGISTERED AUDITOR NAME:			
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/SWORN AFFIDAVIT(FOR EMEs& QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED? <input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ANSWER PART B:3 BELOW]	
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		ARTS AND CULTURE		CONTACT PERSON	
CONTACT PERSON		Mr T Thubisi		Mr T Mabaso	
TELEPHONE NUMBER		012 441 3204		TELEPHONE NUMBER	
FACSIMILE NUMBER				FACSIMILE NUMBER	
E-MAIL ADDRESS		tuelot@dac.gov.za		E-MAIL ADDRESS	
				thembam@dac.gov.za	

PART B TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:	
1.1.	BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2.	ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE
1.3.	BIDDERS MUST REGISTER ON THE CENTRAL SUPPLIER DATABASE (CSD) TO UPLOAD MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS; AND BANKING INFORMATION FOR VERIFICATION PURPOSES). B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.
1.4.	WHERE A BIDDER IS NOT REGISTERED ON THE CSD, MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS MAY NOT BE SUBMITTED WITH THE BID DOCUMENTATION. B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.
1.5.	THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER LEGISLATION OR SPECIAL CONDITIONS OF CONTRACT.
2. TAX COMPLIANCE REQUIREMENTS	
2.1	BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2	BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3	APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.
2.4	BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID.
2.5	IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / PIN / CSD NUMBER.
2.6	WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS	
3.1.	IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <input type="checkbox"/> YES <input type="checkbox"/> NO
3.2.	DOES THE BIDDER HAVE A BRANCH IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO
3.3.	DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO
3.4.	DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN, IT IS NOT A REQUIREMENT TO OBTAIN A TAX COMPLIANCE STATUS / TAX COMPLIANCE SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.	

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

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 14/19-20
CLOSING TIME :11:00	CLOSING DATE: 13 MARCH 2020

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: 012 441 3504
tuelot@dac.gov.za

Or for technical information –
Mr. T Mabaso
Tel: 012 441 3204 / 066 302 5395
thembam@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 2017

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

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

1. GENERAL CONDITIONS

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

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

1.2

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

1.3 Points for this bid shall be awarded for:

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

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

	POINTS
PRICE	80
B-BBEE STATUS LEVEL OF CONTRIBUTOR	20
Total points for Price and B-BBEE must not exceed	100

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

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

2. DEFINITIONS

- (a) “**B-BBEE**” means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

5. BID DECLARATION

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

6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

6.1 B-BBEE Status Level of Contributor: . =(maximum of 10 or 20 points)
(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

7. SUB-CONTRACTING

7.1 Will any portion of the contract be sub-contracted?

(*Tick applicable box*)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

7.1.1 If yes, indicate:

- What percentage of the contract will be subcontracted.....%
- The name of the sub-contractor.....
- The B-BBEE status level of the sub-contractor.....
- Whether the sub-contractor is an EME or QSE

(*Tick applicable box*)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

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

Designated Group: An EME or QSE which is at last 51% owned by:	EME √	QSE √
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
OR		
Any EME		
Any QSE		

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

8.1 Name _____ of
company/firm:.....

8.2 VAT _____ registration
number:.....

8.3 Company _____ registration
number:.....

8.4 **TYPE OF COMPANY/ FIRM**

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

[TICK APPLICABLE BOX]

8.5 **DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

.....

.....

.....

.....

.....

8.6 **COMPANY CLASSIFICATION**

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

[TICK APPLICABLE BOX]

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

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor 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) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury 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.

<p>WITNESSES</p> <p>1.</p> <p>2.</p>
--

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



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

THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT A FEASIBILITY STUDY TOWARDS THE DEVELOPMENT OF A MONUMENTAL FLAG AND FLAG POLE.

CLOSING DATE AND TIME OF BID:

13 MARCH 2020 AT 11H00

COMPULSORY BRIEFING SESSION:

27 FEBRUARY 2020 AT 11:00

SECHABA HOUSE (VWL BUILDING), 202 MADIBA STREET, PRETORIA
(Late arrivals after 11:30 will not be allowed to participate and their bids shall be declared non-responsive)

BID VALIDITY PERIOD: 90 DAYS

1. INTRODUCTION

The National Department of Arts and Culture (DAC) is seeking to appoint a service provider to undertake a Feasibility Study towards the development of a Monumental Flag and Flag Pole in Gauteng Province. The Monumental Flag and Flagpole Project involves the design and construction of a Steel flagpole of a minimum height of 80m (meters), a maximum height of 120m (from the ground with 3 height options of 80m, 100m and 120m) and the production and installation of a special fabric flag measuring a minimum of 15m by 10m. These Terms of Reference describe the objectives, scope of work, deliverables, roles and responsibilities, and time frame/period for this project.

2. BACKGROUND

2.1 Flags are similar to brands in that they are archetypical forms of nation brand identity and are meant to be in public view, appreciated and highly recognizable (top of mind). Since country flags are bigger than corporate brand images in stature, they are meant to be predominantly displayed and honoured. The idea of installing a Monumental Flag and Flagpole is in line with the open display and expression of a part of a country's national identity. The Monumental Flag site becomes more than a flag location, but a public space to be visited and honoured.

2.2 The South African flag, first used in 1994, has become one of the top ten flags of the world in terms of high recognition levels. The democratic history of South Africa, as well as its achievements on the global stage, has made the South African Flag a popular symbol. Yet the flag is not adequately displayed in strategic public spaces like in other patriotic countries. Flags that are hoisted in schools and in government buildings are standard size flags, thereby lacking an overwhelming presence. The tallest and biggest South African flag and flagpole is found in Port Elizabeth, at the Donkin Park. This flag is 68m tall. The tallest flag in the world is found in the city of Jeddah, in Saudi Arabia. It is at 170 meters in height.

- 2.3 The proposed flagpole will be a minimum of 80meters in height, flying a flag not smaller than of 15meters x 10meters in size. This unique project presents both opportunities and challenges and requires a project feasibility study to be carried out before project implementation. Whilst a lot of information has been obtained from desktop research, it is not sufficient to warrant the development of a concrete project brief. Consequently, the Department of Arts and Culture seeks to appoint a service provider that will conduct a detailed feasibility study towards the development of a Monumental Flag and Flagpole.
- 2.4 The Feasibility Study towards the development of the Monumental Flag And Flagpole Project is a Sub-Project of a larger Project led by the Department of Arts and Culture to promote social cohesion and nation building. The Monumental Flag and Flagpole Project seeks to elevate the flag as a symbol of unity in South Africa. The project also holds high prospects for socio-economic development through developing infrastructure including heritage tourism facilities that are anticipated to contribute to economic growth and employment opportunities in line with the National Development Plan (NDP).
- 2.5 The Department of Arts and Culture will use the Monumental Flag and Flagpole as a central symbolic element of its efforts to promote social cohesion and cultivate patriotism.
- 2.6 The Department requires a Feasibility Study for the establishment of the Monumental Flag And Flagpole project to establish the following:**
- 2.6.1 A comprehensive needs analysis research to establish the business case for such a Project in South Africa given the fact that there are existing projects that use the flag to promote social cohesion and cultivate patriotism in the schools and communities.
- 2.6.2 Provide a recommendation on, whether South Africa needs such a project.

2.6.3 Should the recommendation to establish the Monumental Flag and Flagpole Project be positive, the study should provide a full business plan for the establishment of the Monumental Flag and Flagpole, including the following questions addressed and informed by the research:

2.6.3.1 Governance structure and the organisational structure for the Monumental Flag and Flagpole site: Should it be a stand-alone site or be hosted by an existing institution suitable for the task?

2.6.3.2 Consideration of the geographical location of the Monumental Flag and Flagpole given the geographical distribution of existing heritage infrastructure and heritage sites in Gauteng Province. The Feasibility Study should identify at least 3 possible sites to host the project. The 3 preferred sites must be on a summit for effective visibility. The sites should also be accessible to the public. The 3 options should include the Freedom Park Museum and Heritage Site.

2.6.3.3 Unpack the planning process that would be required to establish the Monumental Flag and Flagpole, stating the activities, their associated timeframes and roles and responsibilities for the achievement of the project.

2.6.3.4 Provide cost estimates associated with the pre-construction, planning process, construction and operations after project completion.

3. SCOPE AND EXTENT OF THE TENDER / TASK DIRECTIVE

The Department requires the services of a duly experienced and knowledgeable entity in undertaking the tasks outlined in the table below.

The bidder should confirm that they have read and understood the task description, by indicating with a tick in the column below:

Please note that the service provider is required to conduct comprehensive research and provide a business case for the establishment of the Monumental Flag Project. The research should be focused, but not limited to the following:

	TASKS	YES/NO/ NOTED
3.1	SCOPE AND DELIVERABLES	

	TASKS	YES/NO/ NOTED
3.1.1	THE NEEDS ANALYSIS	
	<p>The needs analysis gives definition to the proposed project, preparing the way for the solution options analysis in Stage 2, which explores the range of possible solutions to meeting the identified needs.</p> <p>The needs analysis of the feasibility study phase will be thoroughly interrogated and where necessary amended to reflect the following:</p> <p>Part 1: Demonstrate that the project aligns with the Departments' mandate. Part 2: Identify and analyse the available budget(s) Part 3: Demonstrate the Department's capacity to manage the project Part 4: Specify the project outputs Part 5: Define the scope of the project</p> <p>Part 1: Demonstrate that the project aligns with the Department's mandate.</p> <p>To be in the Department's best interests, a project needs to align with the Department's mandate and priorities.</p> <p>Step 1: Summarise the Department's mission and vision statements, its strategic objectives, and the government policy that determines what the Department's deliverables are.</p> <p>Step 2: Describe the functions that the Department performs in the public interest or on behalf of the public service.</p> <p>Step 3: Discuss the following aspects of the project:</p> <ul style="list-style-type: none"> • How does the project contribute to the implementation of government and Departmental policy? • Does the Department have the ability and the capacity to meet its project mandate? • What is the relative size of the project, in terms of its anticipated budget or capital expenditure? 	

	TASKS	YES/NO/ NOTED
	<ul style="list-style-type: none"> • What are the potential cost savings for the Department? • How complex is the project? • What does the public require in relation to the services that will be made available by the project? • Given the proposed duration of the project, will it address the broad needs of the Department over time? • Will the proposed project meet the Department’s needs in the time required? <p>Part 2: Identify and analyse the available budget(s)</p> <p>This analysis must include:</p> <ul style="list-style-type: none"> • A discussion of any assumptions about future budgetary commitments required from government: How much will be required over what period of time, escalating by the CPIX. • A discussion of any consolidation of budgets, namely drawing funds from various budgets into a consolidated budget which will be ring-fenced for this project. • A list of the line items currently in the Department’s budget for costs which may no longer be incurred as a result of the proposed project. • Refer to the relevant treasury’s directives on budget preparation in terms of the PFMA. <p>Part 3: Demonstrate the Department’s commitment and capacity.</p> <p>It needs to be clear that the Department can manage, process, evaluate, negotiate and implement the project.</p> <p>Step 1: Provide an assessment of the following:</p>	

	TASKS	YES/NO/ NOTED
	<ul style="list-style-type: none"> • lines of decision-making within the Department, particularly between project officer, senior management and the accounting officer/authority • any areas where a lack of capacity exists, in the project team or in the transaction advisor • a plan on how the lack of capacity will be addressed throughout the project process • the plans for skills transfer from the Project Implementing Agency to the project team at various stages of the project <p>Step 2: Provide information on key stakeholders</p> <p>1. Possible key stakeholders include:</p> <ul style="list-style-type: none"> • those within the Department • other government departments • other spheres of government • other Heritage institutions • organised labour • third parties • the public. <p>2. Describe the nature of each relationship and the impact of each stakeholder to the project. In particular, identify impacts on the funding, resources or processes of the key stakeholders. This is important for establishing where the service will begin and end. For example in IT related components, the State Information Technology Agency (SITA) could be a key stakeholder and this would help to define where the IT services would begin and end.</p> <p>3. Include a consultation plan.</p>	

	TASKS	YES/NO/ NOTED
	<p>The plan should detail how and when consultation will take place during the project preparation period of the project cycle and how the views and contributions of key stakeholders will be incorporated into the project. Also include the results of any consultation the Department may have already undertaken, and any required concurrence obtained from government stakeholders. This includes inputs such as permission from South African Heritage Resources Agency (SAHRA) to demolish a building and any key stakeholder whose input should be sought for such a project.</p> <p><u>Part 4: Specify the outputs</u></p> <p>Once the Department's objectives and budget have been identified, and its commitment and capacity demonstrated, the outputs of the proposed project need to be specified.</p> <p>Step 1: Describe the service that the Department needs to deliver through the project</p> <p>Step 2: Specify the outputs required to deliver that service</p> <p>Step 3: Specify the minimum standards for the outputs</p> <p>This will ensure that the service delivered by the project meets the Department's expectations.</p> <p>Step 4: Assess whether the output specifications can meet the Department's ongoing needs</p> <p>It may be necessary to specify to what extent the project must provide a flexible solution that can be expanded or enhanced over time.</p> <p>Step 5: Specify key indicators that will measure performance</p> <p>This will allow for more accurate costing of the output specifications.</p> <p>Step 6: Identify service interface expectations</p> <p>This concerns the interface between the project and the Department.</p> <p><u>Part 5: Define the scope of the project</u></p>	

	TASKS	YES/NO/ NOTED
	<p>In light of the Department's needs and strategic objectives, and the output specifications for delivering the required service, give a brief definition of the proposed scope of the project. This should be a concise outline of the Department's requirements, which will allow for the selection of reasonable service delivery options.</p> <p>Briefly set out:</p> <ul style="list-style-type: none"> • a summary of how the project objectives will address the Department's strategic objectives, as determined in Part 1 • a summary of the output specifications, as determined in <u>Part 4</u> • a list of significant government assets which will be used for the project (such as land and equipment) 	
3.2	<i>THE OPTIONS ANALYSIS</i>	
	<p>Step 1: List all the solution options the Department has considered The list must cover the range of the most viable solution options for providing the specified outputs of the required service.</p> <p>Step 2: Evaluate each solution option The purpose of the evaluation is to:</p> <ul style="list-style-type: none"> • identify the advantages and disadvantages of each solution option • examine the risks and benefits for, and potential impacts on each option 	
	<p>Brief description</p>	
	<p>Briefly describe each solution option, including an outline of the alignment between each option and the Department's strategic plan, the service it needs to deliver, and the output specifications.</p>	
	<p>Financial impacts</p>	
	<p>For each option show the estimated initial capital expenditure, and the likely capital and operational costs over the full project cycle. (This preliminary analysis of financial impacts will provide a basis for the detailed work to come later in the feasibility study.)</p>	
	<p>Funding and affordability</p>	
	<p>How is each option to be funded? Which options are affordable?</p>	
	<p>Risk</p>	
	<p>Present a preliminary discussion about the risks to government in relation to each option.</p>	

	TASKS	YES/NO/ NOTED
	BEE and other socio-economic aspects	
	Provide a preliminary view on the impact of each option on the BEE targets set out in the outputs specifications, and other socio-economic targets on which the Department may wish to deliver in the project.	
	Service delivery arrangements	
	Discuss the service delivery arrangements for each option, and analyse the implications of each option for optimal interface between services. For example, if the Department is assessing its options for rolling out the project in a remote location, how would each solution option deal with the integration of IT, communications services and staffing requirements?	
	Transitional management issues	
	Discuss the issues that may arise in the transition from existing management arrangements in each solution option.	
	Technical analysis	
	A comprehensive technical analysis must be presented for each solution option, including a supply chain/interface analysis. Include an assessment of the proposed technology and its appropriateness for each solution option.	
	Site issues	
	Each solution option involves a physical site, issues around the procurement of land must be identified at this stage, such as: land use rights, zoning rights, geo-technical, environmental issues, relevant national or provincial heritage legislation, and alignment with municipal Integrated Development Plans. (These issues will be dealt with in detail in the due diligence stage below, but must be identified for each solution option now.). The preference is for all site issues to be resolved during the feasibility study.	
	Legislation and regulations	
	Does a particular option comply with the relevant legislation and regulations? Analyse firstly procurement legislation and regulations, and secondly sector-specific legislation and regulations, which may impact on the project, to establish a compliance list against which each option can be measured.	
	Human resources	
	<ul style="list-style-type: none"> • Establish the numbers and cost of existing Departmental staff or other stakeholder's staff that will be affected in each solution option, do a skills and experience audit, and establish the key human resources issues for the project. 	
	<ul style="list-style-type: none"> • Design and implement a suitable communication strategy for the Department to keep staff informed of the project investigations, as required by labour law. 	
	<ul style="list-style-type: none"> • Assess the following for each option, if relevant: <ul style="list-style-type: none"> - organised labour agreements - the cost of transferring staff, if applicable - an actuarial study of accrued benefits that may be transferred - an initial view on the potential willingness of both staff and private parties to implement transfers. 	

	TASKS	YES/NO/ NOTED
	Qualitative factors	
	There will be a number of qualitative benefits associated with a particular option, which may not be quantifiable and may not be considered as offsetting costs. It is important that these qualitative factors be identified early. For example: Cabinet has agreed that all departmental head offices must be located in the inner city (to enhance access). So although there might be a suitable building or site outside of the inner city, which may be cheaper or more appropriate for other reasons, Cabinet's decision will affect the choice of solution option.	

	TASKS			YES/NO/ NOTED
<p>Step 3: Choose the best solution option Each solution option has now been evaluated. A matrix approach can be used to weight up the evaluation of each option against another to assist in the choice of the best one.</p>				
	Category	Option 1	Option 2	Option 3
	Brief description			
Application of Criteria				
	Construction Cost	9 000 000	12 000 000	13 000 000
	Operations Cost	1 500 000 per annum	1 500 000 per annum	2 000 000 per annum
	Funding and Affordability	Sufficient	Sufficient	Insufficient capital funds
	Risk Rating	Low	Medium	Medium –
	Role for BEE	Low	Low/Medium	Low/Medium
	Service Delivery Arrangements	Low – very difficult to move large contract	Medium	Medium
	Transitional Management Issues	Low	Low	Low
	Technical Analysis Suitability Innovation Etc	Low	Medium	Medium
	Site Issues Impact	Low	Medium	Medium
	Legislation and Regulation Issues	Low	Low	Nil
	Impact on HR	High	Low	Nil
	Qualitative Assessment	Good outcomes	Medium	Medium
	Score	25	20	5
	OPTION RATING	1	2	3
<p>In this last step of the solution options analysis stage, recommend which option(s) should be pursued to the next stage. It is preferable that only one solution option is chosen, and no more than three. If more than one option is recommended, each must be separately assessed in the financial analysis stage below.</p>				

	TASKS	YES/NO/ NOTED
3.3	PROJECT DUE DILIGENCE	
	<p>The due diligence stage is an extension of the solution options analysis stage and aims to uncover any issues in the preferred solution option that may significantly impact on the proposed project.</p> <p>Step 1: Legal issues</p> <p>Although a preliminary legal analysis of each solution option was done in the options analysis stage, a comprehensive legal due diligence of the preferred option(s) must now be done to ensure that all foreseeable legal requirements are met for the development of the project. Although it may be costly to undertake a comprehensive legal due diligence of all aspects of the project in this early phase, it is ultimately worthwhile. Early legal certainty directly affects project costing in Stage 4 (thus assisting in making the procurement choice). Common legal issues that arise are around use rights and regulatory matters. However, the Department’s legal advisors should conduct a thorough due diligence on all the legal issues which have a bearing on the project.</p> <p>If the project being explored is a greenfields project and the Department has never done this kind of project before, then a regulatory due diligence will be required.</p> <p>Investigate any regulatory matters that may impact on the Department’s ability to deliver as expected. These may include:</p> <ul style="list-style-type: none"> • tax legislation • labour legislation • environmental and heritage legislation • sector regulations such as airport licensing, health standards, building codes, etc. <p>Step 2: Site enablement issues</p> <p>If the Department nominates a particular, it will need to identify, compile and verify all related approvals. The purpose is to uncover any problems that may impact on the project’s affordability or cause regulatory delays at implementation.</p> <p>Establish the following:</p> <ul style="list-style-type: none"> • land ownership • land availability and any title deed endorsements • Are there any land claims on the land? • Are there any lease interests in the land? <p>Appoint experts to undertake surveys of:</p> <ul style="list-style-type: none"> • environmental matters • geotechnical matters • heritage matters • heritage matters • airspace matters • zoning rights and town planning requirements • Municipal Integrated Development Plans 	

	TASKS	YES/NO/ NOTED
	<p>Step 3: BEE and other socio-economic issues Identify sectoral BEE conditions (for example, the extent to which BEE charters have been developed and implemented), black enterprise strength in the sector, and any factors that may constrain the achievement of the project's intended BEE outputs. Also identify socio-economic factors in the project location that will need to be directly addressed in the project design.</p>	
3.4	FINANCIAL ASSESSMENT	
	<p>Part 1: Construct the project cost model</p> <p>The project cost model represents the full costs to the Department of delivering the required service according to the specified outputs via the preferred solution option using conventional public sector procurement.</p> <p>The project cost model costing includes all capital and operating costs associated with the project and also includes a costing for all the risks associated with project.</p> <p>The public sector does not usually cost these risks, but it is necessary to get this understanding of the full costs to government of the proposed project.</p> <p>Key characteristics of the project cost model</p> <ul style="list-style-type: none"> • Expressed as the net present value (NPV) of a projected cash flow based on an appropriate discount rate for the public sector • Based on the costs for the most recent, similar, public sector project, or a best estimate • Costs expressed as nominal costs • Depreciation not included, as it is a cash-flow model. 	

	TASKS													YES/NO/ NOTED
Example of a Project Cost Model														
Base PROJECT FINANCIAL MODEL: Nominal cash flow (R thousands)														
	Year													
	0	1	2	3	4	5	6	7	8	9	10	11	12	
DIRECT COSTS														
Capital costs														
Land costs	5,000													
Design and construction contract price	15,000	55,6	39,	17,86										
Payments to consultants	3,333	3,53	3,7											
Plant and equipment	5,000	00	708											
Capital upgrade						20,07								
Life-cycle capital expenditure						3	17,66		21,03			25,05		
						5			9			8		
	Year													
	0	1	2	3	4	5	6	7	8	9	10	11	12	
Maintenance costs				4,764	5,050	5,353	5,674	6,015	6,375	6,758	7,163	7,593	8,049	
Operating costs														
Wages and salaries				5,955	6,312	6,691	7,093	7,518	7,969	8,447	8,954	9,491	10,06	
Running costs				2,382	2,525	2,676	2,837	3,007	3,188	3,379	3,582	3,797	4,024	
Management costs				1,191	1,262	1,338	1,419	1,504	1,594	1,689	1,791	1,898	2,012	
INDIRECT COSTS														
Construction overhead costs	1,000	1,06	1,1											
Operating overhead costs				238	252	268	284	301	319	338	358	380	402	
Administrative overhead costs				596	631	669	709	752	797	845	895	949	1,006	
LESS														
Third-party revenue				5,955	6,312	6,691	7,093	7,518	7,969	8,447	8,954	9,491	10,06	
Subtotal: Base PROJECT FINANCIAL MODEL	29,333	76,1	77,	27,03		48,04	10,92	11,57	33,31	13,00	13,79	39,67	15,49	
		29,333	43	903	6	9,721	2	3	8	1	9	0	4	4
Discount factor: 10%	1.0	0.91	0.8	0.75	0.68	0.62	0.56	0.51	0.47	0.42	0.39	0.35	0.32	
Discounted cash flow	29,333	69,2	64,	20,31		29,83			15,54			13,90		
		29,333	21	383	3	6,640	0	6,166	5,941	0	5,517	5,316	6	4,937
NPV of base PROJECT FINANCIAL MODEL	277,043													

The central functions of the project cost model

- promotes full cost pricing at an early stage
- is a key management tool during the procurement process, assisting the Department to stay focused on the output specifications, costs and risk allocation
- is a reliable way of demonstrating the project's affordability
- is a consistent benchmark and evaluation tool during procurement

Step 1: Provide a technical definition of the project

What norms and standards will be applied in the project?

What maintenance cycles are expected?

Step 2: Calculate direct costs

Direct costs are those that can be allocated to a particular service. These costs must be based on the most recent public sector project to deliver similar infrastructure or services (including any foreseeable efficiencies, for example regular life-cycle maintenance), or a best estimate where there is no recent comparable public sector project. If there are no comparable projects in South Africa, draw on the experience of projects in similar environments in other countries.

1. Capital costs

Direct capital costs are specifically associated with the delivery of new services, including, but not limited to, the costs of design, land and development, raw materials, construction, and plant and equipment. Direct capital costs should also account for the projects' labour, management and training costs, including financial, legal, procurement, technical and project management services. It is also important to include the costs of replacing assets over time.

2. Maintenance costs

Direct maintenance costs will include the costs over the full project cycle of maintaining the assets in the condition required to deliver the specified outputs, and may include the costs of materials, tools and equipment, and labour associated with maintenance. The level of maintenance assumed must be consistent with the capital costs and the operating cost forecasts.

3. Operating costs

Direct operating costs are associated with the daily functioning of the service and will include full costs of staff (including wages and salaries, employee benefits, accruing pension liabilities, contributions to insurance, training and development, annual leave, travel and any expected redundancy costs), raw materials and consumables, direct management and insurance.

Step 3: Identify indirect costs

The project's indirect costs are a portion of the Department's overhead costs, and will include the costs of: senior management's time and effort, personnel, accounting, billing, legal services, rent, communications and other Departmental resources used by the project. The portion can be determined by using an appropriate method of allocation, including but not limited to:

- number of project employees to total Departmental employees for personnel costs

	TASKS	YES/NO/ NOTED
	<ul style="list-style-type: none"> • project costs to total Departmental costs for accounting costs • number of project customers to total Departmental customers for billing costs. <p>Step 4: Identify any revenue The total cost of delivering the service should be offset by any revenues that may be collected. Project revenue may be generated where:</p> <ul style="list-style-type: none"> • users pay for the service/access or a part thereof • the use of the Department’s assets generates revenue • service capacity exists above the Department’s requirement • the Department allows third parties to use the service. <p>Any revenue collected must reflect the Department’s ability to invoice and collect revenue. (This should have been identified during Stage 2.)</p> <p>Step 5: Explain assumptions Explain in detail all assumptions the model makes about the inflation rate, the discount rate, depreciation, treatment of assets, available budget(s), and the government’s Medium-Term Expenditure Framework (MTEF).</p> <p>Inflation The model should be developed using nominal values. In other words, all costs should be expressed with the effects of expected future inflation included. Nominal figures reflect the true nature of costs, as not all costs are inflated at the same rates. This also allows for easy comparison with the Department’s budget, which is expressed using nominal values. Inflation projections should be made with reference to the inflation targets set by the Reserve Bank. The MTEF budget cycle which government uses is adjusted annually by CPIX.</p> <p>The discount rate For practical purposes the discount rate is assumed to be the same as the risk-adjusted cost of capital to government.</p> <p>Depreciation Since the PROJECT FINANCIAL MODEL is calculated on cash flow, not on accrual, non-cash items such as depreciation should not be included. Part 2: Construct the risk-adjusted PROJECT FINANCIAL MODEL</p> <p>Part 2 Calculate the project Risk and include in the project cost model In conventional public sector procurement, risk is the potential for additional costs above the project cost model. Historically, conventional public sector procurement has tended not to take risk into account adequately. Budgets for major procurement projects have been prone to optimism bias – a tendency to budget for the best possible (often lowest cost) outcome rather than the most likely. This has led to frequent cost overruns. Optimism bias has also meant that inaccurate prices have been used to assess options. Using biased price information early in the budget process can result in real economic costs resulting from an inefficient allocation of resources. Much of the public sector does not use commercial insurers, nor does it self-insure (through a captive insurance company).</p>	

Risk Analysis

Step 1: Identify the risks

Explore each risk category in detail. It is important to identify and evaluate all material risks. Even if a risk is unquantifiable, it should be included in the list. Do not forget to include any sub-risks that may be associated with achieving the BEE targets set for the project.

When identifying risks by referring to an established list, there is the possibility that in the list generated for the project, a risk not listed may have been left out by mistake (as opposed to simply not being a risk for this specific project).

It may be difficult to compile a comprehensive and accurate list of all the types of risks. The following can be helpful sources of information:

- similar projects (information can be gathered from the original bid documents, risk matrices, audits and project evaluation reports) both in South Africa and internationally
- specialist advisors with particular expertise in particular sectors or disciplines.

Step 2: Identify the impacts of each risk

The impacts of a risk may be influenced by:

- **Effect:** If a risk occurs, its effect on the project may result, for example, in an increase in costs, a reduction in revenues, or in a delay, which in turn may also have cost implications. The severity of the effect of the risk also plays a role in the financial impact.

Risk	Year												
	0	1	2	3	4	5	6	7	8	9	10	11	12
Design and construction risk													
Cost overrun		3,061	7,570	8,024	3,645								
Time overrun			1,613	3,763	3,763	1,613							
Similar service provision			825	1,925	1,925	1,925							
Upgrade cost		8,652											
Operating risk													2,53
			1,498	1,588	1,684	1,785	1,892	2,005	2,126	2,253	2,388		2
Performance risk			1,787	1,894	2,007	2,128	2,255	2,391	2,534	2,686	2,847		3,01
Maintenance risk													
General maintenance risk			581	616	653	692	734	778	824	874	926	982	
Patient area maintenance risk			484	513	543	576	610	647	686	727	771	817	
Technology risk													1,67
		1,251	1,326	1,405	1,182	1,253	1,328	1,408	1,492	1,582			7

TASKS														YES/NO/ NOTED
Subtotal: Risk	-	3,061	18,659	19,312	15,269	9,830	6,363	6,744	7,149	7,578	8,033	8,515	9,026	
Discount factor: 10%	1.0	0.91	0.83	0.75	0.68	0.62	0.56	0.51	0.47	0.42	0.39	0.35	0.32	
Discounted cash flow	-	2,783	15,421	14,510	10,429	6,104	3,592	3,461	3,335	3,214	3,097	2,984	2,876	
Present value of risk														71,805
<ul style="list-style-type: none"> • Timing: Different risks may affect the project at different times in the life of the project. For example construction risk will generally affect the project in the early stages. The effect of inflation must also be borne in mind. <p>It is essential to specify all the direct impacts for each category of risk. For example, construction risk is a broad risk category, but there could be four direct impacts, or sub-risks:</p> <ul style="list-style-type: none"> • cost of raw material is higher than assumed • cost of labour is higher than assumed • delay in construction results in increased construction costs <p>Each impact is thus a sub-risk, with its own cost and timing implications.</p> <p>Step 3: Estimate the likelihood of the risks occurring</p> <p>Estimating probabilities is not an exact science, and assumptions have to be made. Ensure that assumptions are reasonable and fully documented, as they may be open to being challenged in the procurement process or be subject to an audit. There are some risks whose probability is low, but the risk cannot be dismissed as negligible because the impact will be high (for example the collapse of a bridge). In this case a small change in the assumed probability can have a major effect on the expected value of the risks. If there is doubt about making meaningful estimates of probability, it is best practice to itemise the risk using a subjective estimate of probability rather than to ignore it. Departments should also be prepared to revisit initial estimates, if they learn something new that affects the initial estimate. Together with estimating the probability of a risk occurring, it is also necessary to estimate whether the probability is likely to change over the term of the project.</p> <p>Step 4: Estimate the cost of each risk</p> <p>Estimate the cost of each sub-risk individually by multiplying the cost and the likelihood.</p> <p>Assess the timing of each sub-risk.</p> <p>Cost the sub-risk for each period of the project term.</p> <p>Construct a nominal cash flow for each risk to arrive at its net present value.</p> <p>Example of nominal cash flow for each risk</p>														
Risk	Year													

	TASKS													YES/NO/ NOTED
	0	1	2	3	4	5	6	7	8	9	10	11	12	
Design and construction risk														
Cost overrun	3,061	7,570	8,024	3,645										
Time overrun		1,613	3,763	3,763	1,613									
Similar service provision		825	1,925	1,925	1,925									
Upgrade cost		8,652												
Operating risk														
			1,498	1,588	1,684	1,785	1,892	2,005	2,126	2,253	2,388	2,532		
Performance risk			1,787	1,894	2,007	2,128	2,255	2,391	2,534	2,686	2,847	3,018		
Maintenance risk														
General maintenance risk			581	616	653	692	734	778	824	874	926	982		
Patient area maintenance risk			484	513	543	576	610	647	686	727	771	817		
Technology risk			1,251	1,326	1,405	1,182	1,253	1,328	1,408	1,492	1,582	1,677		
Subtotal: Risk	-	3,061	18,659	19,312	15,269	9,830	6,363	6,744	7,149	7,578	8,033	8,515	9,026	
Discount factor: 10%	1.0	0.91	0.83	0.75	0.68	0.62	0.56	0.51	0.47	0.42	0.39	0.35	0.32	
Discounted cash flow	-	2,783	15,421	14,510	10,429	6,104	3,592	3,461	3,335	3,214	3,097	2,984	2,876	
Present value of risk														71,805

Step 5: Identify strategies for mitigating the risks

A risk can be mitigated either by changing the circumstance under which the risk can occur or by providing insurance for it. Indicate what the risk mitigation strategy for dealing with each particular risk will be, and the attendant cost of such mitigation. This is the most important part of the risk assessment and should identify specific steps taken or to be taken to mitigate risks.

Example of Risk Analysis and Mitigation Table

Risk	Description	Consequence	Risk value (R thousand)	Mitigation
1. Design and construction risk	The risk that the construction of the physical assets is not completed on time, budget or to specification.	Cost & delay	43,200	
1.1 Cost overruns	1.1.1 Increase in the construction costs assumed in base PROJECT FINANCIAL MODEL.	Cost	19,250	
1.2 Time overruns	1.2.1 Increase in the construction costs assumed in base PROJECT FINANCIAL model as a result of delay in the construction schedule	Delay resulting in additional cost	10,750	
	1.2.2 Cost of interim solution. Results in additional cost of maintaining existing building or providing a temporary solution due to inability to deliver new facility as planned.	Cost of interim solution	5,500	
1.3 Upgrade costs	1.3.1 Increase in construction costs if the planned facility is not sufficient and additional capacity needs to be added.	Cost of upgrades	7,700	
2. Operating risk	The risk that required inputs cost more than anticipated; are inadequate quality or are unavailable.	Cost increases and may impact on quality of service. Cost p.a.	1,258	
3. Performance risk	Risk that services may not be delivered to specification	Service unavailability. Inability of Department to deliver public service. Alternate arrangements may need to be made to ensure service delivery, with	1,500	

TASKS		YES/NO/ NOTED
		additional costs. Cost p.a.
4. Maintenance risk	Risk that design/ construction is inadequate and results in higher than anticipated maintenance costs. Higher maintenance costs generally.	Cost increases. May impact on Department's ability to deliver public services.
		894
4.1 General maintenance risk	Risk that design/ construction is inadequate and results in higher than anticipated maintenance costs in general area. Higher maintenance costs generally.	Cost increases. May impact on Department's ability to deliver public services. Cost p.a.
		488
5. Technology risk	Risk that technical inputs may fail to deliver required output specs or technological improvements may render the technology inputs in the project out-of-date.	Cost may increase.
		10,500

Step 6: Construct the risk-adjusted project cost model

Once costs have been established for all identified risks, the base project cost model must be risk-adjusted. This is done using the following simple formula:

Risk-adjusted cost = Base cost + Risk

Example of Risk Adjusted Project Financial Model

	Year												
	0	1	2	3	4	5	6	7	8	9	10	11	12
Direct capital costs	28,375	076,7	17,8		37,73				21,03			25,05	
Direct maintenance costs	33	83	79	65	-	8	-	-	9	-	-	8	-
			4,76	5,05							7,16		8,04
			4	0	5,353	5,674	6,015	6,375	6,758		3	7,593	9

TASKS		YES/NO/ NOTED
Direct operating costs	9,52 10,1 10,70 11,34 12,02 12,75 13,51 14,3 15,18 16,0 - - - 8 00 6 8 9 1 6 27 6 98 1, 00 1,06 1,12	
Indirect costs	0 0 4 834 884 937 993 1,053 1,116 1,183 4 1,329 9 1,25 1,40	
Less: Third-party revenue	5,95 6,31 8,95 10,0 - - - 5 2 6,691 7,093 7,518 7,969 8,447 4 9,491 61	
Subtotal: Base PROJECT FINANCIAL MODEL	29 ,3 76,1 77,9 27,0 9,72 48,04 10,92 11,57 33,31 13,00 13,7 39,67 15,4 33 43 03 36 1 2 3 8 1 9 90 4 94	
Risk value	3,06 18,6 19,3 15,2 8,03 9,02 - 1 59 12 69 9,830 6,363 6,744 7,149 7,578 3 8,515 6	
Total cash flows	29 ,3 79,2 96,5 46,3 24,9 57,87 17,28 18,32 40,46 20,58 21,8 48,18 24,5 33 04 62 48 90 2 5 2 1 7 22 9 20	
Discount rate: 10%	1. 0 0.91 0.83 0.75 0.68 0.62 0.56 0.51 0.47 0.42 0.39 0.35 0.32	
Discounted cash flows	29 ,3 72,0 79,8 34,8 17,0 35,93 18,87 8,41 16,89 7,81 33 04 04 22 69 4 9,757 9,402 5 8,731 3 0 3	
Present value of risk-adjusted PROJECT FINANCIAL MODEL	R348,8 47	

Step 7: Preliminary analysis to test affordability

As a preliminary assessment of the project’s affordability, compare the risk-adjusted project cost model with the Department’s budget for the project as estimated during the solution options analysis. If the project looks unaffordable by a wide margin, it may be necessary to revisit the options analysis.

3.5 SENSITIVITY ANALYSIS

A sensitivity analysis determines the resilience of the base project cost model to changes in the assumptions that the model has been based on.

The Department and its advisors should test the sensitivity of key variables to test their impact on affordability and risk, such as:

	TASKS	YES/NO/ NOTED
	<ul style="list-style-type: none"> • inflation rate • discount rate • construction costs • total operating costs • BEE costs • service demand • third-party revenue, if any <p>For example, an increase in the assumed capital cost may lower an associated risk. This will allow the Department to view the potential spread of the total cost to government.</p>	
3.6	<p>DEMONSTRATE AFFORDABILITY</p> <p>The required budget for the project would have been identified at various stages prior to this. At this stage, it must be scrutinised in detail and confirmed in order to demonstrate project affordability.</p> <p>Step 1: Determine the Departmental budget available for the project</p> <p>Departments should refer to the National Medium-Term Expenditure Estimates (NMTEE) and their own detailed budgets. Include all the applicable available amounts, namely direct and indirect costs, and any third-party revenues. Where necessary, include budgetary allocations that would be available to the project from other Departmental budgets (such as capital works allocations in other work streams).</p>	
3.7	<p>VERIFY INFORMATION AND SIGN-OFF</p> <p>Step 1: Verify the information used in the feasibility study</p> <p>Constructing the project cost models and developing the risk costing are information-intensive exercises. The conclusions which will be drawn from the models are highly dependent on the quality and accuracy of the information they are based on. Because the models will need to be referred to throughout the procurement phase, it is necessary to provide the following information, as an annexure to the feasibility study:</p> <ul style="list-style-type: none"> • A statement from the Department and its advisors on the reasonableness of the information collected, assumptions made and costing carried out. All advisors and technical consultants should sign off on their design and costing as professionals using their best endeavours. For complex projects or projects where there is little precedent, it is strongly recommended that an independent party checks that the assumptions are reasonable and confirms that they have been correctly incorporated into the model to produce an accurate result (arithmetic and logic). This may have cost and time implications. • A record of the methodologies used for valuing various costs, including the costs of key risks. 	

	TASKS	YES/NO/ NOTED
	<ul style="list-style-type: none"> • A statement on how an audit trail of all documentation has been established and maintained to date, and how it will be managed throughout the project. This is an essential requirement, especially for the purposes of the Auditor-General and in terms of the Promotion of Access to Information Act, 2000. <p>Step 2: Draw up a checklist for legal compliance Legal advisors must draw up a checklist for legal compliance.</p> <p>Step 3: Sign off the feasibility study All inputs into the feasibility study must be signed off as accurate and verifiable by each of the feasibility study specialists.</p>	
3.8	<p><i>PROCUREMENT AND IMPLEMENTATION PLAN</i></p> <p>A procurement and implementation plan must contain at least the following:</p> <ul style="list-style-type: none"> • a project timetable for the key milestones and all approvals which will be required to take the project to completion • confirmation that sufficient funds in the Department’s budget are available to take the project to completion • the best procurement practice and procedures suited to the project type and structure and that meet the requirements of equity, transparency, competitiveness and cost effectiveness • the governance processes to be used by the Department in its management of the procurement, especially regarding decision-making • the project team with assigned functions • a list of required approvals from within and outside the Department • a GANTT chart of the procurement process, including all approvals and work items necessary for obtaining these approvals (for procurement documentation as well as, for example, the land acquisitions and environmental studies to be procured) • contingency plans for dealing with deviations from the timetable and budgets • an appropriate quality assurance process for procurement documentation • the means of establishing and maintaining an appropriate audit trail for the procurement • appropriate security and confidentiality systems, including confidentiality agreements, anti-corruption mechanisms, and conflict of interest forms to be signed by all project team members. <p>The feasibility study report must provide as much information as is necessary for the relevant treasury to assess the merits of the project.</p>	

	TASKS	YES/NO/ NOTED
	<p>Submit as much information as possible, making use of annexures, which have been referenced in the appropriate section of the main part of the report. All documents that have informed the feasibility study and are of decision-making relevance to the project must be part of the feasibility study report.</p> <p>The report must not refer to any document that has not been submitted as part of the report.</p>	
3.9	<p>REVISITING THE FEASIBILITY STUDY</p> <p>The feasibility study must become the reference point for the Department during procurement. When any assumptions change the feasibility study must be changed to see what impact the change will have PRIOR TO IMPLEMENTING THE CHANGE</p>	
4.	PRICING	
4.1	All bidders must provide a cost breakdown that must include a detailed costing over the lifespan of the feasibility study, inclusive of all envisaged costs pertaining to the study and VAT. 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.	
4.2	Cost break-down must be linked to clear specified milestones.	
4.3	TIME FRAME	
4.3.1	The service provider will be appointed for a maximum period of 6 months as the tasks should be completed within 6 months from the date of appointment and the signing of the SLA.	
4.3.2	The service provider will be expected to attend meetings and should avail themselves for progress meetings as per the Department's request.	

5. LEGISLATIVE AND REGULATORY FRAMEWORK

- 5.1 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.

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 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 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.

6.1.4 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 70 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 Service provider (s) **must** indicate their compliance to the National Credit Regulator and provide proof.
- 8.6 Original Company Resolution or Letter of authority or Letter of appointment authorizing the signatory of the Entity to sign the contract with the Department.
- 8.7 Valid contact details including e-mail address.
- 8.8 All bidders are required to submit detail of shareholdings status as follows: shareholder certificate with the names of directors and percentage of ownership and ID copies.
- 8.9 At least three reference letters must be provided, as well as an indication of experience with similar projects.
- 8.10 Bidders are requested to provide one original and 4 copies of all documents.
- 8.11 Companies, who registered for VAT, should include VAT on their costing.
- 8.12 Any other details that may be relevant in respect of the tender evaluation criteria described above:

Technical requirements

A detailed proposal including:

- (a) Project plan;
- (b) Project Implementation plan;
- (c) Capacity and experience;
- (d) Number and level/ranks of team member/s to be involved in the assignment;
- (e) CVs of all involved (including but not limited to: qualifications and experience and level of expertise/current designation; relevant professional membership.
- (f) A business plan or proposal will be required indicating demonstrated experience as per evaluation criteria.

- The following documents must be submitted as proof to substantiate the evaluation criteria and can be submitted as annexures:

9. EVALUATION CRITERIA

- All bids duly lodged will be evaluated by a panel first on functionality then price. The evaluation criteria is reflected below:
- The 80/20 principle in terms of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) shall apply in this bid. The lowest acceptable bid will score 80 points for price and remaining 20 points for B-BBEE status level of contribution.
- Prospective bidders will have to score at least 70 out of 100 points allocated for functionality before the company's proposal will be considered for pricing.
- With regards to functionality the following criteria will be applicable and the maximum weight of each criterion is indicated.
- For purposes of comparison and in order to ensure meaningful evaluation, bidders are requested to furnish detailed information to substantiate compliance to each of the evaluation criteria mentioned below:

NO	CRITERIA	WEIGHT	VALUE RATING	TOTAL
9.1	<p>Experience with regard to undertaking Feasibility Studies for similar projects</p> <p>Minimum of three (3) proven projects where the bidder has undertaken a project feasibility study in public and/or private sector, indicating the project scope, budget and attach a reference letter from the client.</p>	25	0-2 projects = 0 points 3-6 projects = 10 points 7-10 projects = 20 points 11+ projects = 25 points	

9.2	<p>Understanding the Brief and approach:</p> <ul style="list-style-type: none"> • Provide a project plan outlining the following: <ul style="list-style-type: none"> -needs analysis -options analysis -project due diligence -financial assessment -risk analysis 	50	-needs analysis = (10 points) -options analysis (10 points) -project due diligence (5 points) -financial assessment (5) -risk analysis (5)	
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	-procurement and implementation plan (with clear timelines and milestones)		-procurement and implementation plan (with clear timelines and milestones) (15)	
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9.3	Profiles of Project Team: <ul style="list-style-type: none"> • Full CV's of each team member outlining the roles in projects regarding undertaking of Feasibility Studies, preferably with at least five (5) years' experience working on similar projects. 	25	0-2 Years = 0 points 3-6 Years = 10 points 7-10 Years = 20 points 11+ Years = 25 points	
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Please note that presentations are not an acceptable format for proposal submissions.

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 bidder 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 the **SCOPE AND EXTENT OF THE TENDER / TASK DIRECTIVE**.

13.2 No service will be provided 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.

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.

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 the Compulsory Briefing Session will be disqualified automatically and their bids will be regarded as non-responsive.

20.1 Compulsory Briefing Session

Date : 27 February 2020

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), Sechaba House, 202 Madiba Street, Cnr Madiba and Paul Kruger Street, Pretoria.

21. **SUBMISSION OF BIDS 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** 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.

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) 441-3504
Email: Tuelot@dac.gov.za
Ms. Refilwe Zulu
Tel: (012) 441 3089
Email: Refilwez@dac.gov.za
<i>For Technical Enquiries:</i>
Ms. Themba Mabaso
Tel: (012) 441 -3204 or 066 302 5395
Email: thembam@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.