



dedect

Department:
Economic Development, Environment,
Conservation and Tourism
North West Provincial Government
REPUBLIC OF SOUTH AFRICA



NWDC Building, Cnr. University
& Provident Street, Mmabatho
Private Bag X 15
MMABATHO 2735
www.nwpg.gov.za

OFFICE OF THE HOD

Enquiries: M Sebogodi/A Mabogole
Tel: 018 388 1478/1618

Dear Sir/Madam

**APPOINTMENT OF SERVICE PROVIDER TO DEVELOP TWO
SETS OF REGULATIONS: MARICO PROTECTED ENVIRONMENT AND MAGALIESBERG
PROTECTED ENVIRONMENT**

RE-ADVERTISEMENT

DEDECT 05/2024

Evaluation criteria 80/20

You are hereby invited to bid for the Department of Economic Development, Environment, and Conservation and Tourism to assist in the Development of Two Regulations: Marico Protected Environment and Magaliesberg Protected Environment bid in line with this invitation letter, Terms of Reference and attached tender documents.

1. ACCESSING BIDDING DOCUMENTS

- 1.1. Bid documents will be available at the SCM office No 262, 2nd Floor Department of Economic Development, Environment, Conservation and Tourism on presentation of proof of deposit of the non-refundable fee of R300.00 per bidding document, weekdays (Monday to Friday) starting from 8:30 to 16:30 or download for free from <https://etenders.gov.za> or <http://www.nwpg.gov.za/dedect>
 - 1.1.1 As far as possible the deposit slip/proof of payment must display Bid Number and Entity Name
 - 1.1.2 Account No: 62811734848, FNB Bank, Cheque account, Megacity branch.



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2. BRIEFING SESSION

Non - Compulsory briefing session will be held as follows:

Venue: NWDC Building Auditorium (DEDECT Provincial office), Corner University Drive and Provident Street

Date: 29 January 2025

Time: 11h30

3. No Telephonic, telegraphic, telex, facsimile, electronic or e-mailed bids will be considered.
4. The Department of Economic Development, Environment, Conservation and Tourism reserves the right to accept any bid in whole or in part and does not bind itself to accept the lowest or any bid.

5. Closing Date

Sealed bids must be deposited in a bid box situated at **Department of Economic Development, Environment, Conservation and Tourism, Corner University Drive and Provident Street, Mmabatho** on:

Closing Date: 12 February 2025

Closing Time: 11H00 AM

Late bids will not be considered. Please note that bids are late if they are received at the address given in the bid document after the bid closing date and time.



6. BID REQUIREMENTS

6.1. Administrative Requirements

Completion of SBD forms

Kindly receive attached the following bid documents for completion:

- **SBD 1- Invitation to bid**
- **SBD 3.3- Professional services**
- **SBD 4- Declaration of interest with certified copies of Identity Documents of the Main Shareholders/ Directors of the company valid for 3 months.**
- **SBD 6.1- Preferential Points**
- **General Conditions of Contract (initialised each page)**

6.2 Important conditions to note

- a) Bids will be evaluated on 80/20 criteria
- b) Bids will be valid for a period of 90 days after closing date
- c) Successful bidder must be tax compliant.
- d) All bid prices must be quoted in South African Currency and must be VAT inclusive where applicable.
- e) All the relevant forms attached to this bid document must be completed in full and signed in ink where applicable by a duly authorised person.
- f) Bidders should also submit National Treasury Central Supplier Database (CSD) registration report.

6.3 OHS Compliance

- a) Compliance to Occupational Health and Safety regulations should be observed.

7. The following documents must be attached for evaluation on functionality

- a) Entity profile
- b) Qualification and CVs of key personnel who will be involved in the project
- c) Certified copies of certificates for key personnel who will be involved in the project



8. The following documents must be attached for Evaluation on 80/20: Price, Preference Point System and Specific Goals

- a) Original valid BBEE certificate issued by verification agency accredited by SANAS or its certified copy /signed and dated sworn affidavit authorized by the Commissioner of Oath.
- b) In case of Joint Venture a consolidated certificate in line with requirements as stated on paragraph 8.a) above

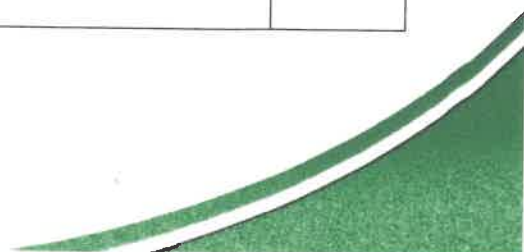
9. The Evaluation process will entail the following stages:

- a) Stage One - Evaluation on functionality
- b) Stage Two- Evaluation on 80/20: Price, Preference Point System and Specific Goals

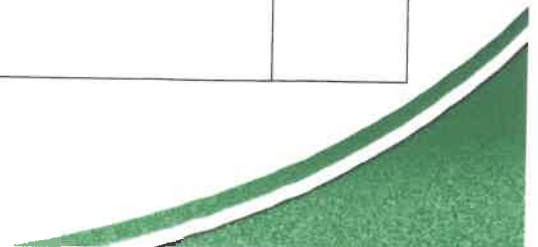
10. STAGE ONE - EVALUATION ON FUNCTIONALITY

Tenders are required to score a minimum of 60 points for functionality and will be disqualified if scoring less.

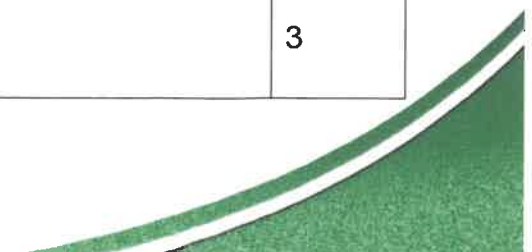
No.	FUNCTIONALITY	Weight	Scoring Guideline	Value
1.	Understanding the project scope	20	<p>Understanding of the brief not submitted</p> <p>Project plan submitted but does not reflect all the key components.</p> <p>Well understood brief .All key components adequately addressed.</p>	<p>0</p> <p>3</p> <p>5</p>



2.	<p>Methodology to be employed</p> <p>(Unpacking each phase of the project, giving the most effective and efficient methodology for the time period provided)</p> <p>Bidder presented clear method to achieve the deliverables of the project within the stipulated timeframe with clear project milestones, allocation of resources and comprehensive all-inclusive budget</p>	25	<p>(Bidder should provide clear project work plan with accurate scoping and key milestones explaining how the project will be conducted)</p> <p>Technical approach and methodology not submitted</p> <p>Generic approach not including all critical aspects of the project</p> <p>Comprehensive methodology reflecting each phase of the project</p>	<p>0</p> <p>3</p>



				5
3.	Experience in Facilitation of Public Participation Processes	10	0 years 1-2 years 3-5 years 6-8 years 9-10 years >10 years	0 1 2 3 4 5
4.	Detailed experience in work of this nature.	20	0 Years 1-2 Years 3-5 Years 6-8 Years	0 1 2 3



			9-10 Years	4
			>10 Years	5
5.	Experience and educational background of the personnel proposed to provide the service. Assessment of the condensed Curricula Vitae of personnel involved on the projects. (For all specialists on the team, experience should be at least 5 years in their field of expertise.	15	0-24% of team 5 years and above	0
			25-49% of team 5 years and above	2
			50-74% of team 5 years and above	3
			75-99% of team 5 years and above	4
			100% of team 5 years and above	5
6.	Skills transfer activities/interventions (Methodology should indicate how skills will be transferred to DEDECT officials)	10	0 interventions	0
			1-2 interventions	2
			3-5 interventions	3
			>5 interventions	5
	FUNCTIONALITY	100		



11. STAGE TWO- EVALUATION ON 80/20: PRICE AND SPECIFIC GOALS

- a) Only service provider that have attached original valid Broad-Based Black Economic Empowerment (BBBEE) certificate issued by verification agency accredited by SANAS or its certified copy /signed and dated sworn affidavit authorized by the Commissioner of Oath, will earn preferential points accordingly.
- b) In case of Joint Venture a consolidated certificate/Sworn affidavit in line with requirements as stated on paragraph 12, a) above must be provided
- c) In terms of regulation 6 of the Preferential Procurement Regulations 2022 pertaining to the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000), responsive bids will be adjudicated by the State on the 80/20-preference point system in terms of which points are awarded to bidders on the basis of:
- The bid price (maximum 80 points)
 - Specific goals (maximum 20 points)
- d) The following formula will be used to calculate the points for price: 80
- $$P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$
- Where
- P_s = Points scored for comparative price of bid under consideration
- P_t = Comparative price of bid under consideration
- P_{\min} = Comparative price of lowest acceptable bid
- e) A maximum of 20 points will be allocated to a bidder for attaining their maximum specific goals:



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

No	Specific goals allocated points in terms of this tender	Procurement/Expenditure Transactions Preference Points allocated out of 20
1	Enterprise owned by black people <ul style="list-style-type: none"> • B-BBEE status level 1 • B-BBEE status level 2 • B-BBEE status level 3-8, non-compliant contributor 	5 3 0
2	Enterprise located in a targeted area: <ul style="list-style-type: none"> • North West Province (Please submit original stamped proof of residence) 	9
3	<ul style="list-style-type: none"> • Enterprise owned by women 	6

NB, Failure to submit the above mentioned evidence the bidder will forfeit preference point for specific goal



12. REASONS FOR DISQUALIFICATION:-

- a) Bidders who are not tax compliant during the stage of award
- b) Bidder who submitted information that is fraudulent, factually untrue or inaccurate, for example memberships that do not exist, BEE credentials, experience, etc.
- c) Bidders who received information not available to other bidders through fraudulent means;
- d) Bidders who made false declarations on the Standard Bidding Documents, or misrepresent facts; and/or
- e) Bidders who are listed on the National Treasury's Database of restricted suppliers
- f) Bidders who are employed by the state
- g) Misrepresentation of information provided

13. PROJECT MONITORING

The **Department of Economic Development, Environment, Conservation and Tourism** will be responsible for the over-all performance monitoring of a successful service provider, including final approval of reports, proposal and ensuring payment of approved invoices. The day to day management of service provider's working team will remain the responsibility of the Service Provider.



TERMS OF REFERENCE (TOR)



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LIST OF ACRONYMS

Abbreviation	Definition
BCA	Biodiversity Conservation Assessment
BGIS	Biodiversity GIS
BRP	Bioregional Plan
BSP	North West Biodiversity Sector Plan
CBA	Critical Biodiversity Area
DEDECT	North West Department of Economic Development, Environment Conservation and Tourism
DFFE	Department of Forestry Fisheries and Environment
EMF	Environmental Management Framework
ESA	Ecological Support Area
GDARD	Gauteng Provincial Department of Agriculture and Rural Development
GIS	Geographic Information Systems
IDP	Integrated Development Plan
NEMBA	National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004)
NEMA	The National Environmental Management Act, 1998 (Act 107 of 1998) as amended
NEMPAA	National Environmental Management: Protected Areas Act (NEMPAA) (Act No. 57 of 2003)
NW	North West province
PAES	North West Protected Areas Expansion Strategy
PAS	Protected Area System
SANBI	South African National Biodiversity Institute
SDF	Spatial Development Framework



14. REQUEST FOR PROPOSAL

The objective of this request for proposal is to appoint an independent, professional and suitably qualified service provider to assist the North West Department of Economic Development, Environment Conservation and Tourism (DEDECT) with development of two (2) set of regulations for:

- 1) Magaliesberg Protected Environment; and
- 2) Marico Protected Environment

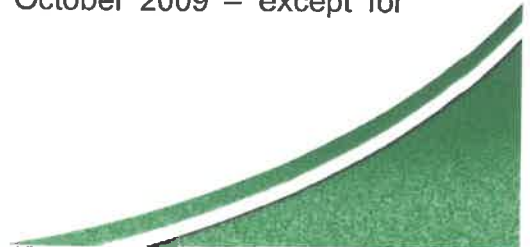
15. BACKGROUND

Protected Areas / Protected Environment

Protected areas/ environments are portions of the land or seascape that are formally protected by law, in terms of the National Environmental Management: Protected Areas Act (NEMPAA) (Act No. 57 of 2003), with the primary purpose of biodiversity conservation (i.e. protecting ecosystem types, species and genetic diversity).

National Environmental Management: Protected Areas Act No. 57 of 2003, provides for provides for “the protection and conservation of ecologically viable areas representative of South Africa's biological diversity and its natural landscapes and seascapes; for the establishment of a national register of all national, provincial and local protected areas; for the management of those areas in accordance with national norms and standards; for intergovernmental co-operation and public consultation in matters concerning protected areas; for the continued existence, governance and functions of South African National Parks; and for matters in connection therewith”. As amended by:

- a) National Environmental Management: Protected Areas Amendment Act 31 of 2004 – Gazette No. 27274, No. 131. Commencement date: 1 November 2005 [Proc. No. R. 58, Gazette No, 28123]
- b) National Environment Laws Amendment Act 14 of 2009 – Gazette No.32267, No. 617. Commencement date: 18 September 2009 [Proc. 65, Gazette No. 32580]
- c) National Environmental Management: Protected Areas Amendment Act 15 of 2009 – Gazette No. 32660, No. 748. Commencement date: 23 October 2009 – except for sections 1 and 8 [Proc. No. 69, Gazette No. 32660]



- d) Schedule 2 amended by Government Notice R236 in Government Gazette 36295 dated 27 March 2013. Commencement date: 1 April 2013 of sections 1 and 8 (relating to Schedule 2) of the National Environmental Management Protected Areas Amendment Act, 15 of 2009 [Proc. No. 7, Gazette No. 36296]
- e) National Environmental Management: Protected Areas Amendment Act 21 of 2014 - Government Notice 445 in Government Gazette 37710 dated 2 June 2014. Commencement date: 2 June 2014.
- f) Schedule 2 amendment by General Notice 2 of 2016 in Government Gazette 39728 dated 25 February 2016. Commencement date: 25 February 2016.
- g) Government Notice 598 in Government Gazette 43358 dated 29 May 2020. Commencement date: 29 May 2020.

Role of Protected Areas

Protected areas serve as a refuge for species to live in and reproduce, which is crucially important for threatened or rare species and species that are harvested such as fishes and medicinal plants. As vast areas of ecological infrastructure, they provide services such as carbon sequestration, cleaning water and mitigating against natural disasters such as floods and drought. Protected areas are vital to the local economy, as they are important employers, and the land on their borders often becomes very valuable and a hive of economic activity due to tourist routes to and from the parks. Some protected areas allow certain types of use (e.g. grazing, fishing, harvesting useful plants) if managed appropriately.

The protected area estate of South Africa's terrestrial mainland increased by 11% between 2010 and 2018, and now covers nearly 9% (> 108 000 km²) of the country's land area. The land-based protected area network is increasingly representative of the full range of ecosystem types, with three-quarters of terrestrial ecosystem types now having some form of representation. Over two-thirds of ecosystem types are represented in the current protected area network, leaving 31% in the Not Protected category. Wetland and river ecosystem types have the lowest levels of protection overall. While protected areas are effective conservation measures for many species, they are less effective for freshwater fishes as the pressures typically originate in the wider catchment area, outside the protected area boundary.



Magaliesberg Protected Environment

The Department (DEDECT), as the mandated authority for the maintenance and preservation of biodiversity within the North West Province, intends to review an outdated Magaliesberg Protected Environmental (MPE) Administrator's Notice 127 of 1994, that was issued in terms of section 16(2) of the Environmental Conservation Act, 1989 (Act No 73 of 1989).

Magaliesberg was proclaimed a Protected Natural Environment in the Administrators Notice 126 of 4 May 1994 in accordance with Section 16 of the Environment Conservation Act, 1989 (Act No. 73 of 1989). It straddles between two provinces with a total footprint of 37 909 hectares (ha). The portion of MPE which falls within North West province is 32 120 ha and only 5 789 ha of MPE falls within the Gauteng.

MPE constitute one of the two core zones of the Magaliesberg Biosphere that was listed as an international Biosphere Reserve by UNESCO on 9 June 2015, having been recognized for its exceptional natural, cultural, and human characteristics. The Magaliesberg Biosphere is owned and managed by the people who live within it, and by their elected representatives. Biospheres are demonstration sites that harness the natural and cultural assets of the area to promote socio-economic improvement for the community, and enjoyment for visitors, through the sustainable use of the natural resource. Furthermore, on 29 March 2019 part of Magaliesberg Protected Environment was listed as a Ramsar site (Kgaswane Mountain Reserve) which is situated on its upper edges.

A need was identified for the development of an environmental decision support tool in the 2009 MPE Environmental Management Framework (EMF), to facilitate a consolidated and inclusive approach for the management of this area. This need arises from the following:

- i. the number and nature of development applications in the BPDMEMF area received for environmental authorization, indicating that there is severe development pressure in the district area;
- ii. the complexity around competing land uses in the area;
- iii. the need to align spatial plans affecting the area.

In terms of section 28 of the NEMPAA, regulations for protected environment may be developed for the following reasons:

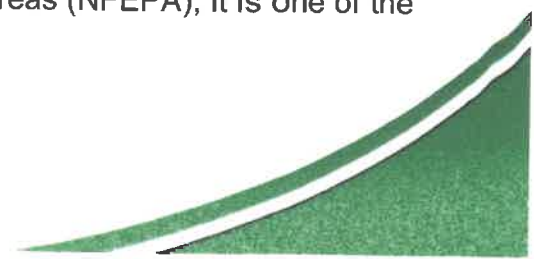


- i. to regulate the area as a buffer zone for the protection of a special nature reserve, world heritage site or nature reserve;
- ii. to enable owners of land to take collective action to conserve biodiversity on their land and to seek legal recognition therefore;
- iii. to protect the area, if the area is sensitive to development due to its biological diversity; natural characteristics; scientific, cultural, historical, archaeological or geological value; scenic and landscape value; or provision of environmental goods and services;
- iv. to protect a specific ecosystem outside of a special nature reserve, world heritage site or nature reserve;
- v. to ensure that the use of natural resources in the area is sustainable; or
- vi. to control change in land-use in the area, if the area is earmarked for declaration as, or inclusion in, a nature reserve.

As such, the Department is requiring the services of a service provider with the necessary understanding and expertise on South African legislative to review, conduct stakeholder engagement, update and publish the Regulations for the Magaliesberg Protected Environment in terms of section 87(1) of National Environmental Management: Protected Areas Act No 57 of 2003.

Marico Protected Environment

The Marico Protected Environment was declared in 2016 in terms of Section 28(1)(a)(i) of the National Environmental Management: Protected Areas Act No. 57 of 2003. It has a total footprint of 38 999.4 ha and 23 different landowners. According to North West Biodiversity Sector Plan the area falls within Critical Biodiversity Area requiring legal protection. It is headwater of Marico River and Molemane River. The Groot-Marico and Molemane rivers feed into the Limpopo River which provides water for people in South Africa, Zimbabwe, Botswana, and Mozambique. The Molopo feeds into the Orange River and the Southern aquifers supply water to the Lichtenburg wetland system that feeds into the Harts River and then into the Vaal River. According to National Freshwater Ecosystem Priorities Areas (NFEPAs), it is one of the rivers that is still under good / natural condition.



Marico Protected Environment constitute the core zones of the Marico Biosphere that was listed as an international Biosphere Reserve by UNESCO on 26 July 2018, having been recognized for its exceptional unique freshwater ecosystem which includes the Molemane, Molopo and Marico River systems. The ecosystem is characterized by wetlands and a dolomitic system, which constitute a valuable part of South Africa's natural heritage. The savannah and grassland areas support vulnerable plant species such as *Searsia maricoana*. Endemic fauna include 73 species of mammal such as the African elephant, the black rhinoceros and the lion. A need was identified for the development of an environmental decision support tool that will provide guidance for different landowners to manage the area sustainably.

16. AIM

The aim of the project is to develop through extensive public participation process two (2) sets of regulations for Magaliesberg and Marico Protected Environment in terms of the National Environmental Management: Protected Areas Act No.57 of 2003.

17. OBJECTIVES

To integrate South Africa's provisions under the National Environmental Management: Protected Areas Act (Act No. 57 of 2003) into the national standards of the effective management of the Marico Protected Environment by the development of regulations in line with strategies or frameworks that govern Protected Environments by:

- 17.1 Providing the development of the Marico Protected Environment within the framework of national legislation, including the National Environmental Management Act;
- 17.2 Providing for co-operative governance in the development and subsequent management of the Marico Protected Environment Regulations;
- 17.3 To effect a national system of protected environments in South Africa as part of a strategy to fit in the Marico Protected Environment Regulations into the national grid that manage and conserve its biodiversity;
- 17.4 To develop regulations that would promote sustainable utilization of the protected environment for the benefit of people in a manner that would preserve the ecological character of such areas; and



17.5 To promote participation of local communities in the management of protected areas, where appropriate.

18. SCOPE AND EXTENT OF WORK

The Scope of Work indicated hereunder, encompass generic aspects applicable to both regulations for the Marico and Magaliesberg Protected Environment as well as specific aspects required for each:

a) Generic Aspects:

18.1 The development of regulations should include a skills development component.

18.2 The Service Provider shall serve as the secretariat during the Magaliesberg and Marico Protected Environment regulations development process and as such will be responsible for all action-based minute compilation and distribution for all meetings, including Project Management Team meetings, Project Steering Committees and relevant stakeholder engagements.

18.3 Identification of activities to be restricted through regulations

18.4 Develop monitoring tool to measure compliance.

b) Magaliesberg Protected Environment Regulations:

18.5 Identify priority areas for Magaliesberg Protected Environment, across terrestrial (Biodiversity Sector Plan), freshwater (NFEPA);

18.6 Address different tools and mechanisms to manage the Magaliesberg Protected Environment;

18.7 Address institutional mandates for the management of Magaliesberg Protected Environment, and how these are divided between provincial, municipal and conservation authorities; and

18.8 Include a financial strategy or costing exercise for Magaliesberg Protected Environment.

c) Marico Protected Environment Regulations:

18.9 Address institutional mandates for the management of Marico Protected Environment, including the roles and responsibilities of different landowners, management authority, municipal and conservation authorities; and

18.10 Integration of existing different land use rights.



19. DELIVERABLES

- 19.1 Draft and final project Inception Report. This report, as a minimum, must include:
 - 19.1.1 The approach and methodology for the successful development of the Magaliesberg and Marico Protected Environment Regulations.
 - 19.1.2 A detailed outline of the tasks and major milestones to be completed with timeframes, responsibilities and invoice schedule.
- 19.2 Draft and final Magaliesberg Protected Environment Regulations.
- 19.3 Draft and final Marico Protected Environment Regulations as a separate standalone document.
- 19.4 Draft and final Stakeholder Engagement report for Magaliesberg Protected Environment Regulations.
- 19.5 Draft and final Stakeholder Engagement report for Marico Protected Environment as separate standalone document.
- 19.6 Final Published Reports for:
 - 19.6.1 Magaliesberg Protected Environment Regulations, printing (and delivery to DEDECT offices) of the final 100 copies.
 - 19.6.2 Marico Protected Environment Regulation, printing (and delivery to DEDECT offices) of the final 100 copies.
- 19.7 Ten (10) USB Flash Drives, each 16GB in capacity, each loaded with relevant documents, presentation, from the Magaliesberg and Marico Protected Environment Regulations.
- 19.8 DEDECT must receive from the Service Provider, digital copies of the following Magaliesberg and Marico Protected Environment Regulations products:
 - 19.8.1 A high resolution Adobe .pdf, a low resolution Adobe .pdf and a Microsoft Word document and Microsoft PowerPoint for editing purposes. For the maps digital copies of both low- and high-resolution file formats, suitable for publishing purposes, will be required.
- 19.9 A Skills transfer report.



20. PROJECT MANAGEMENT

After appointment, the Service Provider/s will meet with the relevant officials to:

- 20.1 Establish a Project Management Team (PMT) which should include DEDECT, Management authorities, NWPB and the Service Provider.
- 20.2 Agree upon the roles and responsibilities of the PMT.
- 20.3 Establish a Project Steering Committee (PSC). The PSC can be made up of individuals from DEDECT, Management authorities, NWPTB, SANBI, DFFE, GDARD, relevant North West Provincial Government Departments and the relevant Municipalities and the Service Provider. Other relevant stakeholders such as NGOs, Academia, Conservation Groups, Biosphere Reserve Management Authorities etc. could be invited to the PSC meetings on an *ad-hoc basis* depending on need.
- 20.4 Agree upon the roles and responsibilities of the PSC.
- 20.5 Agree on the number of PSC meetings as well as an ideal venue for such meetings.
- 20.6 Confirm the scope of work for the project.
- 20.7 Agree upon the project plan and the time frames for the deliverables.
- 20.8 Agree on the methodology and approach of the project.
- 20.9 Agree on the public participation strategy and the extent of public coverage and consultation.

21. TIMING OF ASSIGNMENT

All work is to be carried out within 12 months from the date of appointment and in accordance with the time schedule as agreed in the first Inception meeting.

22. STAKEHOLDER ENGAGEMENT

This project will build and benchmark on the success of the previous and current projects, which also underwent an extensive stakeholder consultation process during the development of the plan. A database of stakeholders should be compiled and should consist of representatives from the following institutions:

- The South African National Biodiversity Institute



- The Department of Forestry Fisheries and Environment
- The Gauteng Provincial Department of Agriculture and Rural Development (GDARD)
- The Department of Water and Sanitation
- The Department of Agriculture, Land Reform and Rural Development
- Relevant North West Provincial Government Departments including the North West Office of the Premier
- The North West Parks Board
- Relevant district Municipalities
- Relevant local Municipalities
- The Mining Sector
- The North West University
- CSIR
- NGOs, the Private Sector, Civil Society and Conservation Groups
- Magaliesberg and Marico Biosphere Management Authorities
- Magaliesberg and Marico Protected Environment management authorities.
- Environmental Departments in bordering provinces

23. REQUIRED EXPERTISE

It will be expected that the project team will comprise and/or have access to the following areas of expertise:

- 23.1 Project Management;
- 23.2 The services of a reputable Conservation Planner. The Conservation Planner must have been involved in similar projects that have been recognized by the Biodiversity Sector (i.e. SANBI and DFFE);
- 23.3 Protected areas planning;
- 23.4 Spatial planning experience i.e. SEA, SDF & EMF, including strategic planning and integrative skills;
- 23.5 GIS skills and facilities;
- 23.6 Spatial analytical skills;
- 23.7 Knowledge of Environmental legislation;
- 23.8 Knowledge of Town and Regional Planning;



- 23.9 Local and indigenous knowledge, including socio-economical knowledge;
- 23.10 Knowledge of the state of the study area (biodiversity, significant Red data species, etc.);
- 23.11 Knowledge of Environment Impact Assessment processes;
- 23.12 Experience in Environmental Management;
- 23.13 Knowledge of biodiversity management & monitoring;
- 23.14 Public participation and facilitation; and
- 23.15 Desktop publishing.

24. PROJECT QUOTATION AND PERFORMANCE MEASURES

A detailed project budget must be provided in accordance with the performance measures outlined in the Work Plan (Annexure A). Each proposed project activity should be analysed in terms of the required inputs and these inputs must be costed. The performance measures for the delivery of the Marico and Magaliesberg Protected Environment regulations will be closely monitored by the Project Management Team.

Travel and accommodation expenses to the meetings outlined in Annexure A, and when undertaking the actual work (i.e. workshops, data consolidation and analyses) within the project area, are for the account of the Service Provider and must be budgeted for accordingly.

Venue hiring, inclusive of catering and materials, required for the workshops are also for the account of the Service Provider.

The final terms of the project will be agreed to by both parties and signed off as part of the Service Level Agreement between DEDECT and the Service Provider.

25. REPORTING

The service provider will submit monthly progress reports to the Project Management Team, within 4 working days after the end of each month for the entire duration of the project.



26. COPYRIGHT AND CONFIDENTIALITY

- 26.1 Copyright of all materials will belong to the client (State).
- 26.2 Copyright of information obtained through the course of the assignment will be the property of the client and may not be sold or re-produced by the service provider without the prior permission of the client.
- 26.3 All reports, collateral, photographic and audiovisual material developed are the property of the client and are to be used or distributed only with the permission of the client.
- 26.4 No presentations of any materials may be made without the prior permission of the client.

27. MONITORING OF PROGRESS ON ASSIGNMENTS

The Project Manager shall do the day-to-day management of the service level agreement and will monitor the progress on the project at a strategic level.

28. CONTINUITY AND PROFILE OF SENIOR STAFF ON THE PROJECT

The service provider/s must guarantee the presence of a senior in charge of the project throughout the duration of the contract. If the senior has to leave the project, a period of at least a month is required in which the senior must work parallel with the next person (senior consultant with appropriate expertise and experience) appointed to be able to transfer skills and knowledge.

29. INVOICES

- 31.1 Payments will be made against the deliverables and milestones in the approved plan of work.
- 31.2 Invoices must indicate the task and/or output and should include a short description of work done referring to any relevant reports.
- 31.3 No up-front payments will be made. Government pays for work completed to the satisfaction of the Department within 30 days of submission of invoice.
- 31.4 A list / schedule of invoices to be submitted must be included in the draft plan of work, and should be related to tangible outputs as mentioned above.
- 31.5 The client reserves the right to commission only portions of the work and this can only take place with the approval of the joint steering committee



32. INFORMATION REQUIRED

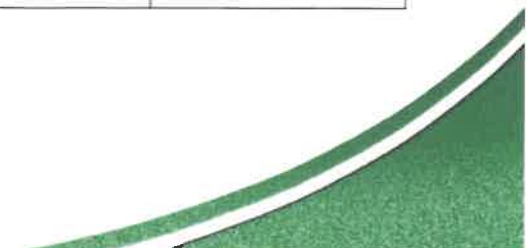
Tender Evaluation can only be done on the basis of information submitted. The comprehensiveness of the tender can therefore be decisive in awarding thereof (refer to Annexure A)

33. ANNEXURE A: PRELIMINARY WORK PLAN

Key performance Measures (Deliverables)	Activity	Targets
	Appointment of Service Provider	Month 1
	1 st Project Steering Committee Meeting to be held prior to inception workshop. Service Provider to act as secretariat.	Within a week of SP being appointed
	Inception meeting/workshop to finalize methodology, Scope of Work, Deliverables and detailed implementation plan.	2 weeks after the 1 st PSC Meeting
Draft Inception Report	1 st Project Management Team Meeting: Discuss draft Inception Report	Month 2
Final Inception Report	Finalization & Distribution	Month 2
	Gap analysis and evaluation of existing information and decision-making tools for inclusion into the regulations	Month 3
	Service provider to facilitate workshop with relevant stakeholders, experts, to ensure the inclusion of all important contribution	Month 3
	Stakeholder Workshop to assess the threats and opportunities to biodiversity in the NW and identify potential protected expansion areas	Month 4



Consolidation of all available datasets.	Finalize the consolidation of all available datasets to be used in the final analyses with conservation planning software	Month 5
	2 nd Project Management Team Meeting and 2 st Project Steering Committee Meeting after all input	Month 5
1 st Draft Regulations	Develop 1 st draft set of Protected Environment regulations	Month 6
	3 rd Project Management Team Meeting and 3 rd Project Steering Committee Meeting to discuss the 1 st Draft of the Protected Environment Regulations	Month 6
	General Stakeholder Workshop to present the 1 st Draft Protected Environment Regulations might have to be workshopped separately depending on stakeholder audience)	Month 7
2 nd Draft regulations	Update 1 st draft Protected Environment regulations report/s with stakeholder comments and develop 2 nd draft reports	Month 7
	General Stakeholder Workshop to present the 2 nd Draft Protected Environment Regulations might have to be workshopped separately depending on stakeholder audience)	Month 8
Final Regulations	Update 3 rd draft Protected Environment Regulations with stakeholder comments for final Magaliesberg and Marico Protected Environment Regulation	Month 8
	4 th Project Management Team Meeting and PSC Meeting to consider 3 rd draft regulation before publication on government gazette	Month 8
Publication for comments	3 rd draft published for comments on government gazette	Month 8



	Update 4rd draft Protected Environment Regulations with comments received after publications for inputs for final Magaliesberg and Marico Protected Environment Regulation	Month 10
	5 th Project Management Team Meeting and PSC Meeting to consider inputs received and 5 rd draft regulation before publication on government gazette for implementation	
Publication for implementation	Publication of the final Magaliesberg and Marico Protected Environment regulations for implementation	Month 11
	6 th Project Management Team Meeting and PSC Meeting to: <ul style="list-style-type: none"> - Close up report - Delivery of the reports to the DEDECT offices at the AgriCentre Building in Mmabatho, North West. 	11

34. For more information please contact the following:

Department of Economic Development, Environment, Conservation & Tourism (North West) for administrative enquiries

Contact Person (admin): Aobakwe Mabogole -018 388 1618 amabogole@nwpg.gov.za

Contact Person (admin): Mr Mike Sebogodi- 018 388 1618 SebogodiM@nwpg.gov.za

35. TECHNICAL ENQUIRIES

Contact Person: Mr. Mashudu Nemutandani – 082 326 1185/073 884 469

mnemutandani@nwpg.gov.za


.....

Mr Energy Diutlwileng

Deputy Chairperson:

Bid Specification Committee

!!/12/2024...

Date



Recommended/Not Recommended



.....
Ms Keabetswe Molosiwa
Chairperson: Bid Adjudication Committee

11/12/2024
.....
Date

Approved/Not approved

As advised.


.....
Mr Relebohile Mofokane
Acting Head of Department

12/12/2024
.....
Date

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)							
BID NUMBER:		CLOSING DATE:			CLOSING TIME:		
DESCRIPTION							
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)							
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO				TECHNICAL ENQUIRIES MAY BE DIRECTED TO:			
CONTACT PERSON				CONTACT PERSON			
TELEPHONE NUMBER				TELEPHONE NUMBER			
FACSIMILE NUMBER				FACSIMILE NUMBER			
E-MAIL ADDRESS				E-MAIL ADDRESS			
SUPPLIER INFORMATION							
NAME OF BIDDER							
POSTAL ADDRESS							
STREET ADDRESS							
TELEPHONE NUMBER		CODE		NUMBER			
CELLPHONE NUMBER							
FACSIMILE NUMBER		CODE		NUMBER			
E-MAIL ADDRESS							
VAT REGISTRATION NUMBER							
SUPPLIER COMPLIANCE STATUS		TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE		TICK APPLICABLE BOX]		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX]	
		<input type="checkbox"/> Yes <input type="checkbox"/> No				<input type="checkbox"/> Yes <input type="checkbox"/> No	
[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 THE QUESTIONNAIRE BELOW]	
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS							
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?						<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE A BRANCH IN THE RSA?						<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?						<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?						<input type="checkbox"/> YES <input type="checkbox"/> NO	
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?						<input type="checkbox"/> YES <input type="checkbox"/> NO	
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.							

**PART B
TERMS AND CONDITIONS FOR BIDDING**

1. BID SUBMISSION:
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED--(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.
1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
1.4. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).
2. TAX COMPLIANCE REQUIREMENTS
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

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

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:
(Proof of authority must be submitted e.g. company resolution)

DATE:

PRICING SCHEDULE
(Professional Services)

NAME OF BIDDER:	BID NO.:
CLOSING TIME 11:00	CLOSING DATE.....

OFFER TO BE VALID FORDAYS 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 –

(INSERT NAME AND ADDRESS OF DEPARTMENT/ENTITY)

Tel:

Or for technical information –

(INSERT NAME OF CONTACT PERSON)

Tel:

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

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

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

2. Bidder's declaration

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

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

Full Name	Identity Number	Name of State institution

2.2 Do you, or any person connected with the bidder, have a relationship

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

with any person who is employed by the procuring institution? **YES/NO**

2.2.1 If so, furnish particulars:

.....
.....

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

2.3.1 If so, furnish particulars:

.....
.....

3 DECLARATION

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

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

² 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.

SBD4

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

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

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

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

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

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

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

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

1. GENERAL CONDITIONS

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

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

1.2 **To be completed by the organ of state**

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

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

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

1.4 **To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

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

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

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

2. DEFINITIONS

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

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

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

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

$$Ps = 80 \left(1 - \frac{Pt - Pmin}{Pmin} \right) \text{ or } Ps = 90 \left(1 - \frac{Pt - Pmin}{Pmin} \right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

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

3.2.1. POINTS AWARDED FOR PRICE

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

$$Ps = 80 \left(1 + \frac{Pt - Pmax}{Pmax} \right) \quad \text{or} \quad Ps = 90 \left(1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where

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

4. POINTS AWARDED FOR SPECIFIC GOALS

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

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

(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.)

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

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)

DECLARATION WITH REGARD TO COMPANY/FIRM

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

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

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

<p>.....</p> <p>SIGNATURE(S) OF TENDERER(S)</p>
<p>SURNAME AND NAME:</p>
<p>DATE:</p>
<p>ADDRESS:</p> <p>.....</p> <p>.....</p> <p>.....</p>

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
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13. Incidental services
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15. Warranty
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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 (NIP) Programme** 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.
- 34 Prohibition of Restrictive practices** 34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
- 34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

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