



FRANCES BAARD DISTRICT MUNICIPALITY

TENDER

BID 30/18: PROVISION OF ARCHITECTURAL PROFESSIONAL SERVICES FOR THE BUILDING OF 2 FIRE ENGINE BAYS AT JAN KEMPDORP FOR FRANCES BAARD DISTRICT MUNICIPALITY

Frances Baard District Municipality (FBDM) hereby invites qualified service providers to submit proposals for the above-mentioned project.

This bid will be evaluated in terms of the 80/20 preference point system as prescribed in the Preferential Procurement Regulations, 2017 pertaining to the PPPF Act (No 5 of 2000) and the Supply Chain Management Policy of Frances Baard District Municipality. FBDM is not bound to accept the lowest bid. FBDM reserves the right to partial acceptance of one or more bids.

NB: A compulsory briefing / clarification meeting will be held on 11 March 2019 at 11h00am at Piet Retief Street, Jan Kempdorp.

For all compulsory site/briefing sessions, all bidders must assemble at the aforementioned area (address) at the stated time. Late service providers who are not at the aforementioned area at the stated time will not be allowed into the compulsory briefing meeting and will be prohibited from submitting proposals.

The closing date for submissions is 25 March 2019 at 12h00. Bids will be opened in public immediately after the stated closing time.

Proposals should be clearly marked: **BID 30/18: PROVISION OF ARCHITECTURAL PROFESSIONAL SERVICES FOR THE BUILDING OF 2 FIRE ENGINE BAYS AT JAN KEMPDORP FOR FRANCES BAARD DISTRICT MUNICIPALITY** and submitted to **The Municipal Manager, Frances Baard District Municipality, Private Bag X6088 Kimberly, 8300**, or hand delivered to the Frances Baard District Offices: 51 Drakensberg Avenue, Carters Glen, Kimberley.

Bids documents are obtainable at FBDM's offices during working hours or on the FBDM Website (www.francesbaard.gov.za). Enquiries on SCM matters, may be directed to Mr. P. Souden at tel. (053) 838 0948 during office hours and for technicalities to Mr. C. Jones or Mr. S. Suliman (053) 838 0911.

If no response received within 90 days after the closing date, consider your proposal unsuccessful.

Ms. Z.M. Bogatsu
Municipal Manager

FRANCES BAARD DISTRICT MUNICIPALITY



BID 30/18: PROVISION OF ARCHITECTURAL PROFESSIONAL SERVICES FOR THE BUILDING OF 2 FIRE ENGINE BAYS AT JAN KEMPDORP FOR FRANCES BAARD DISTRICT MUNICIPALITY

| | |
|-------------------------------|-------------------------|
| TENDERER: | ..... ..... |
| ADDRESS OF TENDERER: | ..... ..... ..... |
| TEL NO: | |
| FAX NO: | |
| TENDER AMOUNT: (VAT Included) | |

THE TENDER CLOSES ON 25 March 2019 AT 12H00, AT THE FRANCES BAARD MUNICIPAL OFFICES, 51 DRAKENSBERG AVENUE, CARTERS GLEN, KIMBERLEY, 8300.

**FRANCES BAARD DISTRICT MUNICIPALITY
BID 30/18:
PROVISION OF ARCHITECTURAL PROFESSIONAL SERVICES FOR THE
CONSTRUCTION OF 2 FIRE ENGINE BAYS FOR FRANCES BAARD DISTRICT
MUNICIPALITY**

TENDER NOTICE AND INVITATION TO TENDER

Part T1.1

Notice is hereby given in terms of Frances Baard District Municipality's Supply Chain Management Policy that Frances Baard District Municipality (FBDM) is inviting registered and suitably qualified professionals to submit detailed bid proposals for the provision of architectural professional services for the construction of 2 fire engine bays.

BID 30/18: PROVISION OF ARCHITECTURAL PROFESSIONAL SERVICES FOR THE BUILDING OF 2 FIRE ENGINE BAYS FOR FRANCES BAARD DISTRICT MUNICIPALITY.

A compulsory site inspection and clarification meeting will take place at Piet Retief Street, Jan Kempdorp on **11 March 2019** starting at 11:00am. Only tenderers who attend the compulsory site meeting are eligible to submit tenders. Tender documents will be available from **05 March 2019 at the offices of FBDM.**

A site inspection will be held for bidders to familiarise themselves with the terrain immediately after the compulsory briefing session.

A non-refundable tender deposit of R200-00 payable in cash or by bank guaranteed cheque made out in favour of FBDM is required on collection of the tender documents.

Tenders must comply with the following conditions:

1. Be submitted in a sealed envelope upon the outside whereof is clearly stated:
 - a. that such envelope contains a tender; and
 - b. the contract and tender number for which such a tender is being submitted.
2. Tenders must be valid for a period of 90 days after the closing date.
3. Proof of registration with SACAP, ECSA and/or SACQSP must be submitted; whichever is applicable for the different members of the consulting team.
4. A current and original tax clearance certificate from the South African Receiver of Revenue (SARS) certifying that the taxes of the tenderer are in order must also be attached.
5. Be submitted before or at 12:00 on **25 March 2019.**

The Municipal Manager shall reject all tenders that do not comply with the aforementioned conditions and the conditions as set out in the tender document.

The lowest or any tender will not necessarily be accepted, and FBDM reserves the right to subdivide the contract and accept any portion of any tender. The tender will be adjudicated within the framework of the Supply Chain Management Policy of FBDM.

Late tenders, telegraphic tenders or tenders sent by fax or e-mail will not be considered and are out rightly disqualified.

This is a two stage bid and it will be evaluated as follows:

- Firstly, the assessment of functionality (presentations) will be done in terms of the evaluation criteria and the minimum threshold. A bid will be disqualified if it fails to meet the minimum threshold for functionality as per the bid invitation.
- Secondly, only qualifying bids will be evaluated in terms of the 90/10 preference points systems, where the 90 will be used for price **ONLY** and the 10 for points awarded for **B-BBEE status level of contribution**.

Only tenderers that can demonstrate the required experience and skills relating to the execution of this project will be considered. This criteria will be taken into account for the appointment of a successful tenderer:

Further details can be obtained from Mr. C B Jones or Mr. S Suliman at telephone 053 838 0911 or 083 675 7793.

Sealed marked tenders must be placed in the tender box at the FBDM offices (reception area), 51 Drakensberg Avenue, Carters Glen, Kimberley not later than **12h00 on 25 March 2019** when it will be opened in public in the committee room.

The FBDM website can be visited at www.francesbaard.gov.za

Ms. M Bogatsu
MUNICIPAL MANAGER
Private Bag X6088
KIMBERLEY
8300

**FRANCES BAARD DISTRICT MUNICIPALITY
BID 30/18:
PROVISION OF ARCHITECTURAL PROFESSIONAL SERVICES FOR THE
BUILDING OF 2 FIRE ENGINE BAYS FOR FRANCES BAARD DISTRICT
MUNICIPALITY IN THE PHOKWANE MUNICIPAL AREA (JAN KEMPDORP) ON ERF
NO 1106**

VERY IMPORTANT NOTICE ON DISQUALIFICATIONS

Part T1.2

A bid not complying with the requirements stated hereunder will be regarded as not being an acceptable bid, and as such will be rejected.

Acceptable bid means any bid which, in all respects, complies with the conditions of bid and specifications as set out in the bid documents, including conditions as specified in the Preferential Procurement Policy Framework Act (Act 5 of 2000) and related legislation as published in government gazette number 22549, dated 10 August 2001, in terms of which provision is made for this policy.

The bid is not an acceptable bid if:

1. A valid original tax clearance certificate (or in the case of a joint venture, of all the partners in the joint venture) has not been submitted with the bid document. Certified or scanned copies of tax clearance certificates are not allowed;
2. Any pages have been removed from the bid document, and have therefore not been submitted, or a copy of the original bid document has been submitted;
3. A bidder failed to initial next to all corrections, i.e. information that was scratched out, written over and any information that was erased using correction fluids, etc;
4. A bidder failed to attend the compulsory site inspections and clarification meetings;
5. The bidder failed to properly sign all relevant pages of the bid document by a person duly authorized to do so;
6. The bidder failed to submit an authority for the signatory sign on behalf of the bidder;
7. The bidder attempts to influence, or has in fact influenced the evaluation and/or awarding of the contract;
8. The bidder has been submitted either in the wrong bid box or after the relevant closing date and time;
9. The bid is transmitted by telegram, telex, facsimile, e-mail or similar apparatus other than the described;

10. If any bidder who during the last five years has failed to perform satisfactorily on a previous contract with the municipality, municipal entity or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
11. Proof of membership / registration to a professional organization, as required, has not been attached to the bid document;
12. The bidder or any of his directors is listed on the register of bid defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector;
13. The bidder has abused or tried to abuse the FBDM's Supply Chain Management System;
14. The bidder failed to attach a copy of a valid signed Joint Venture agreement (if applicable) to the bid document;
15. The information submitted by bidders are fraudulent, factually untrue or inaccurate;
16. Bids submitted by bidders which are incomplete which do not comply with the mandatory requirements as stipulated in the document, including returnable documents and documents required for tender evaluation purposes.

**FRANCES BAARD DISTRICT MUNICIPALITY
BID 30/18:
PROVISION OF ARCHITECTURAL PROFESSIONAL SERVICES FOR THE
BUILDING OF 2 FIRE ENGINE BAYS FOR FRANCES BAARD DISTRICT
MUNICIPALITY**

| | |
|-----------------------------|------------------|
| DESCRIPTION OF WORKS | Part C3.1 |
|-----------------------------|------------------|

C3.1.1 BACKGROUND

The FBDM is planning the establishment a fire station at Erf 1106 situated at Hertzog Street, Jan Kempdorp in the Phokwane municipal area. The existing double garage needs to be demolished and provision needs to be made for 2 Fire engine bays.

The architectural firm appointed will design sketch plans and an estimated cost for the above-mentioned. On completion of the design of the 2 Fire engine bays, the construction phase will need a project management team to ensure the successful completion of the construction of this project.

C3.1.2 EMPLOYER'S OBJECTIVES

The FBDM objective is to appoint an architectural firm to act as a principal agent for the project. The principal agent is expected to appoint other professionals such as quantity surveyors, structural, civil, mechanical and/or electrical engineers to assist in the planning and management of construction activities for the 2 Fire engine bays. This team will have to provide specifications, compile tender documentation, provide a tender evaluation report, supervise the construction, do quality control and all other project management activities for the successful completion of the project.

The design, specifications and drawings for the 2 Fire engine bays must be according to the National Building Regulations, the local municipality's regulations, regulations regarding facilities and access for disabled persons, construction regulations and any other legislation applicable. All drawings must be approved by the local municipality.

C3.1.3 OVERVIEW OF THE PROJECT

A. LOCATION OF THE WORKS

The fire station will be located on the premises at Piet Retief Street, Jan Kempdorp.

GPS Co-ordinates: Latitude: -27.916230° and Longitude: -24.837344°.

B. PROPOSED WORKS

The 2 Fire engine bays must consist of the following:

- 2 separate drive through entrances

Provision Must be made for the following:

- Proper ventilation
- Lockers to store fire gear (Helmet, trouser, jacket and boots)
- Locker space to store cleaning materials
- Ablution facilities
- Electrical rolled up engine bay doors.
- Floors must have the stability to carry the minimum weight of 30 tons.

C3.1.4 EXTENT OF WORKS:

The work to be carried out by the tenderer under this contract comprises mainly of the following services:

- Specifications and compiling of tender documentation;
- Tender evaluation report;
- Construction drawings and issuing of instructions;
- Construction supervision and monitoring of the project;
- Quality control and assurance that tests and commissioning complies with contract requirements;
- Ensuring OHS Act and construction regulations are complied with;
- Financial control and contractors payments;
- Monthly reports on the format to be agreed on;
- Monthly site meetings, site inspections and secretariat functions;
- As-built drawings and documentation;
- Close-out report;
- Preparing detail operation manual.

It is important to note that the project can only progress into construction once the funds for the construction is secured / approved by our Council.

Please take note of the following:

- **APPROVAL OF DOCUMENTATION**

The successful service provider must provide input and make recommendations for the approval of the following tender documents during the construction phase:

- ▶ Contract guarantee (10%);
- ▶ Insurance;
- ▶ Occupational health and safety plan; and
- ▶ Extension of contract period and application of penalty clause.

- **OPERATION AND MAINTENANCE MANUAL**

An operation and maintenance manual must be provided specifically for the works to be constructed and the following aspects of the new as well as the existing infrastructure should be included:

- ▶ Building maintenance works;
- ▶ Civil works; and
- ▶ Electrical and mechanical works.

The manual should include but no be limited to the following aspects:

- ▶ General overview and description of the works;
- ▶ Design standards and criteria used;
- ▶ Operational procedures;
- ▶ Operation and maintenance schedules;
- ▶ Log sheets;
- ▶ Incident / occurrence book;
- ▶ List of equipment and tools as well as of spare parts;
- ▶ Maintenance and installation methods and procedures;
- ▶ Pamphlets and particulars of suppliers of material and parts, etc.;
- ▶ As built drawings;
- ▶ Occupational health and safety aspects;
- ▶ Monitoring, manage and maintenance quality; and
- ▶ An operational budget.

All information and as-built drawings will be maintained during the construction phases and should be a standing item during site meetings.

C3.1.4 PROJECT DELIVERABLES

The project includes:

- Detail drawings, specifications and confirmation of cost estimates;
- Approval of building plans by the Phokwane Local Municipality;
- Bid documentation and advertisement;
- Construction drawings at the appointment of building contractor as may be required during construction work.
- As-built plans at site hand-over (2 x A1 size hardcopy sets, 2 x A2 size book sets, an electronic copy in AutoCAD format (DWG format) and an electronic copy in PDF format. Building plans must include the floor plan, electrical layout, plumbing, site plans, elevations and all other services.
- Monthly, quarterly and close-out reports; and
- EPWP reports.

C3.1.5 AVAILABLE INFORMATION

No further documentation is available from FBDM. The service provider must familiarise them with the conditions and status of the existing building during the site inspection.

C3.1.6 LIAISON WITH FBDM

The tenderer must liaise with FBDM during all phases of the project and advise FBDM on all matters relating to the project. The contact person for FBDM will be Mr. C. B Jones or Mr. S Suliman (Technical) unless otherwise expressly indicated at the compulsory site clarification meeting or when the tender has been awarded.

C3.1.7 APPOINTMENT

The final selection and appointment will be undertaken in line with the Supply Chain Management Policy of the FBDM as specified in the bid document. A single appointment will be made for the works in terms of this contract and bid. Approval to continue with construction work is subject to funding availability and national treasury approval to continue with the construction phase.

The appointed tenderer will be required to register as supplier/service provider on the FBDM supplier database before any payments can be made.

C3.1.8 TENDERER QUALIFICATIONS AND EXPERIENCE

Only registered tenderers with registered professionals that can demonstrate the required experience and skills in planning, designing, drafting and management of the same or similar type of works will be considered for this project. All professionals must be registered as described in this bid document.

Proof of registration with the relevant legislated bodies and any other registration must also be included as part of the proposal/offer/bid.

The bid must indicate the tenderers qualifications and previous experience relevant to this assignment. In particular, we expect the proposal to provide evidence of experience which include: contact persons with contact details, contract descriptions, contract values and dates of completion.

C3.1.4 PROPOSAL STRUCTURE

The service provider must structure his/her proposal to include *inter alia*, also the following:

- All relevant company registration details;
- Company profiles;
- Resumés of persons responsible for deliverables;
- List and details of sub-contractors/other professionals (including evidence of experience);
- Vat registration details;
- References with contact details of similar completed projects;
- Detailed project plan with:
 - Work methodology and phasing of the objectives and activities to be performed;
 - Clear timeframes/schedule aligned with objectives and tasks/activities; and
 - **Budget:**
 - ✓ All expenses must be included and linked to the objectives and tasks/activities within the project. See also the section on cost proposal of this document.
 - ✓ A final budget and phasing of payment will be negotiated with the service provider and finalised at the time of appointment.
 - **Any value adding services.**

C3.1.4 LANGUAGE MEDIUM

All documents and all correspondences are to be in **English**.

C3.1.4 PAYMENT

The payment structure will be based on the phases on delivery of required reporting documentation and deliverables. The client will have a maximum of 30 calendar days for payment after receipt of a *bona fide* claim including an original tax invoice. Take note of the following:

- The VAT invoice must be addressed to FBDM.
- The contract number, invoice number and VAT registration number of the company must be shown on each invoice.
- The VAT registration number of FBDM must also be shown on each invoice.
- A breakdown commensurate with the prices is shown on each invoice.
- FBDM accepts only original invoices.

C3.1.4 COMPLETION PERIOD

The tenderer must indicate the time period for the project.

C3.1.4 DISCLOSURE OF INFORMATION

With the acceptance of this appointment, the successful tenderer specifically undertake not to furnish information of any kind whatsoever at any stage during the validity of this tender or any period thereafter in respect of the works to any person or organisation outside of FBDM and its authorised agents, except in cases where they have been authorised thereto in writing by the FBDM.

C3.1.4 COPYRIGHT

The copyright of all documentation, whether in hard copy and/or electronic format, prepared by the successful tenderer in terms of this appointment vests in the FBDM. FBDM have the right to their use on other projects for which any other tenderer have been appointed.

FRANCES BAARD DISTRICT MUNICIPALITY
BID 30/18:
PROVISION OF ARCHITECTURAL PROFESSIONAL SERVICES FOR THE
BUILDING OF 2 FIRE ENGINE BAYS FOR FRANCES BAARD DISTRICT
MUNICIPALITY

PROFESSIONAL SERVICES

Part C3.2

C3.2.1 PROJECT BUDGET

The project budget will be determined by the cost estimate of the Architect.

C3.2.2 SCOPE AND SPECIFICATION OF PROFESSIONAL SERVICES

The offered fees must be based on the estimated project cost but the fees will be adjusted if the final cost of the works should differ from the amount available. The fee structure provided will then be used for this purpose and any proposed discount will then also be applied to the adjusted fee.

Although bidders will provide costing for all the work, approval to continue is subject to funding availability and any appropriate and required approval for the construction of 2 Fire engine bays to continue.

The essential functions of each work stage relevant to the service are identified herein as:

1. Standard services

A. Design development

- Confirm the scope and complexity;
- Review the design and consult with local and statutory authorities;
- Develop the design, construction system, materials and components;
- Incorporate and co-ordinate all services and the work of consultants; and
- Review the design, develop a bill of quantities with costing and programme with the consultants.

B. Documentation and procurement

- B.1** Prepare documentation sufficient for submission to the local authority:

- Co-ordinate technical documentation with the consultants and complete primary coordination;
- Prepare specifications for the works;
- Review the costing and programme with the consultants; and
- Obtain FBDM's authority and submit documents for approval by the local municipality.

B.2 Complete construction documentation and assist with evaluation of tenders:

- Obtain FBDM's authority to prepare documents for procurement of offers for the execution of the works;
- Prepare documents for procurement of offers for the construction work;
- Evaluate offers and give recommendations on the award of the building contract; and
- Prepare the contract documentation and arrange the signing of the building contract.

C. Construction

- Administer the construction contract;
- Give possession of the site to the contractor;
- Issue construction documentation;
- Initiate and/or check sub-contract design and documentation as appropriate;
- Inspect the works for conformity to the contract documentation;
- Administer and perform the duties and obligations assigned to the principal agent in the JBCC construction contract, or fulfill the obligations provided for in other forms of contract;
- Issue the certificate of practical completion; and
- Assist the client to obtain the occupation certificate

D. Close out

- Facilitate the project close-out including the preparation of the necessary documentation to effect completion, handover and operation of the project;
- After the contractor's obligations with respect to the construction contract are fulfilled, the architectural professional shall issue the certificates related to contract completion;
- Provide the client with as-built drawings and relevant technical and contractual undertakings by the contractor and sub-contractors

2. Partial services and additional services

The Architectural Profession Act provides for the appointment of various architectural professionals to fulfill each or any stage of a standard service or parts thereof. Partial and additional services may be agreed upon, of which the options most regularly utilised are listed in the framework for the professional fees guideline in respect of services rendered by person(s) registered in terms of the Architectural Profession Act, Act no 44 of 2000 as published in government gazette No 34788, dated 02 December 2011.

C3.2.3 PERSONNEL:

Information regarding personnel curriculum vitae's (CV) and relevant experience that will be involved in the project must be provided in the forms and schedules. The tenderer's capability statement must also be provided with specific reference to knowledge regarding the following:

- Quality management and project management experience.
- Quality management system. Details must be provided in an annexure.
- Experience in the build environment fields (architecture, civil, mechanical and electrical engineering, etc.).
- Occupational health and safety (including construction regulations).
- Proof of Strengths and experience in project management are to be listed and provided in an annexure.
- The project team must be able to ensure:
 - i) Strong project leadership and excellent client liaison;
 - ii) Sound design management and co-ordination;
 - iii) A strong emphasis on well-defined scope management;
 - iv) Clear information pathways and responsibilities for delivery; and
 - v) Skilled technical specialists in team and discipline leading roles.

FRANCES BAARD DISTRICT MUNICIPALITY
BID 30/18:
PROVISION OF ARCHITECTURAL PROFESSIONAL SERVICES FOR THE
BUILDING OF 2 FIRE ENGINE BAYS FOR FRANCES BAARD DISTRICT
MUNICIPALITY

PROCUREMENT

Part C3.3

C3.3.1 APPOINTMENT & TIME FRAMES

Tender preparation must commence as soon as possible after the tender has been awarded. A design report and tender documentation must be completed within 90 calendar days after appointment. Tenderers are requested to submit a programme along with the tender to confirm speedy implementation.

C3.3.2 REMUNERATION

The tenderer will be remunerated in term of the fee structure contained in the framework for the professional fees guideline in respect of services rendered by person(s) registered in terms of the Architectural Profession Act, No 44 of 2000, Board Notice 195 of 2011 as gazette in government gazette No 34788, 2 December 2011 (as defined previously in this document) and the tender offered in the form of offer and acceptance. Interim progress payments will be made within 30 days upon delivery of invoices and the appropriate supporting documentation with regard to work completed, progress and cash flow.

Regular project monitoring and progress feedback meetings with FBDM will be required. The intervals will be monthly unless specifically requested by FBDM.

Proposed evaluation

The evaluation of this bid will be conducted in the following two (2) stages.

Firstly, the assessment of functionality will be done in terms of the evaluation criteria and the minimum threshold. A bid will be disqualified if it fails to meet the minimum threshold for functionality as per the bid invitation.

Thereafter, only those qualifying bids will be evaluated in terms of the 80/20 preference points systems, where the 80 will be used for price **ONLY** and the 20 for points awarded for **B-BBEE status level of contribution**.

Only service providers that can demonstrate the required experience and skills relating to the execution of this project will be considered. The following criteria will be taken into account for appointment of a successful service provider:

PG. 15 BID 30/18: PROVISION OF ARCHITECTURAL PROFESSIONAL SERVICES FOR THE BUILDING OF 2 FIRE ENGINE BAYS AT JAN KEMPDORP FOR FRANCES BAARD DISTRICT MUNICIPALITY

FUNCTIONALITY CRITERIA

Criteria to be used for functionality (see attached functionality evaluation criteria checklist).

| CRITERIA | MAX POINTS (%) |
|---|----------------|
| Experience on specific project and expertise of key personnel | 20 |
| Approach and methodology (proposal) | 20 |
| Project management and quality of the product | 10 |

NB: Bidders that score less than 30 points for functionality will be deemed non-compliant with the bid specification

Evaluation criteria (price)

| | |
|-------|----|
| Price | 80 |
|-------|----|

Points awarded for B-BBEE status level of contribution

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

NB: In order to claim for these points, bidders are required to submit an original valid B-BBEE status level verification certificates or certified copies thereof together with their bids to substantiate their B-BBEE rating claims (see MBD 6.1 section 5).

Statutory and general

The following conditions will apply:

- ✚ Price (s) quoted must be valid for at least ninety (90) days from date of your offer.
- ✚ Price quoted must be firm and must be inclusive of VAT.
- ✚ A firm delivery period must be indicated.
- ✚ CSD summary report indicating that all requirements are in order (valid).
- ✚ Proof of municipal account.

This proposal will be evaluated in terms of the 80/20 preference point system as prescribed in the Preferential Procurement Regulations, 2017 pertaining to the PPPF Act (No 5 of 2000) and Supply Chain Management Policy of Frances Baard District Municipality (NB: MDB forms are obtainable at FBDM Office during working hours as well as on the FBDM website: www.francesbaard.gov.za):

- ✚ MBD 1 Invitation to bid
- ✚ MDB 3.3 Pricing schedules
- ✚ MBD 4 Declaration of interest
- ✚ MBD 6.1 Preference claim in terms of the Preferential Procurement Regulations
- ✚ MBD 7.2 Contract form
- ✚ MBD 8 Past Supply Chain management practice
- ✚ MBD 9 Certificate of independent bid determination

Disqualification factors

- **All bids that do not submit a valid tax clearance certificate / master registration number or tax compliance status PIN;**
- **All bids that do not submit a proposed work plan (functionality);**
- **All bidders that did not attend the compulsory briefing session;**
- **All bids that are received late;**
- **Failure to complete all required bid documents;**

- **Terms and conditions that are not within this bid documents specifications;
or**
- **All bids that are faxed, e-mailed or telegraphed.**

Frances Baard District Municipality reserves the right to accept a portion of a tender, and the lowest and/or any tender will not necessarily have to be accepted.

The closing date for submissions is **25 March 2019 at 12h00**. Proposals should be clearly marked: **BID 30/18: PROVISION OF ARCHITECTURAL PROFESSIONAL SERVICES FOR THE BUILDING OF 2 FIRE ENGINE BAYS AT JAN KEMPDORP FOR FRANCES BAARD DISTRICT MUNICIPALITY** and submitted to **The Municipal Manager (Ms. M. Bogatsu), Frances Baard District Municipality, Private Bag X6088 Kimberly, 8300,** or hand delivered to the **Frances Baard District Offices, 51 Drakensberg Avenue, Carters Glen, Kimberley**. Enquiries on technicality may be directed to Mr. C. Jones, tel. (053) 838 0911 and for supply chain matters to Mr. P. Souden at tel. (053) 838 0946 during office hours.

**PART A
INVITATION TO BID**

| | | | | | |
|---|---|---------------|---------------|---------------|---------|
| YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE FRANCES BAARD DISTRICT MUNICIPALITY | | | | | |
| BID NUMBER: | BID 30/18 | CLOSING DATE: | 25 MARCH 2019 | CLOSING TIME: | 12H00PM |
| DESCRIPTION | PROVISION OF ARCHITECTURAL PROFESSIONAL SERVICES FOR THE BUILDING OF 2 FIRE ENGINE BAYS AT JAN KEMPDORP FOR FRANCES BAARD DISTRICT MUNICIPALITY | | | | |
| THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7). | | | | | |

BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX
SITUATED AT (STREET ADDRESS)

| | | | | | |
|---|---|--|--|---|--|
| Frances Baard District Offices (Tender Box) | | | | | |
| 51 Drakensberg Avenue | | | | | |
| Carters Glen | | | | | |
| Kimberley | | | | | |
| 8301 | | | | | |
| 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 | | | | | |
| TAX COMPLIANCE STATUS | 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 | |
| [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] | |
| TOTAL NUMBER OF ITEMS OFFERED | | TOTAL BID PRICE | | R | |
| SIGNATURE OF BIDDER | ..... | DATE | | | |
| CAPACITY UNDER WHICH THIS BID IS SIGNED | | | | | |
| BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO: | | | TECHNICAL INFORMATION MAY BE DIRECTED TO: | | |
| DEPARTMENT | FINANCE – SCM | CONTACT PERSON | Mr. C. Jones | | |
| CONTACT PERSON | MR. P. SOUDEN | TELEPHONE NUMBER | 053 838 0911 | | |
| TELEPHONE NUMBER | 053 838 0948 | FACSIMILE NUMBER | 053 861 1538 | | |
| FACSIMILE NUMBER | 053 861 1538 | E-MAIL ADDRESS | cliffie.jones@fbdm.co.za | | |
| E-MAIL ADDRESS | Phillip.souden@fbdm.co.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. | THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER 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 THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE 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 | FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3. |
| 2.5 | BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID. |
| 2.6 | IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED; EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER. |
| 2.7 | 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 ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <input type="checkbox"/> YES <input type="checkbox"/> NO |
| 3.2. | DOES THE ENTITY HAVE A BRANCH IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO |
| 3.3. | DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO |
| 3.4. | DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO |
| 3.5. | 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 ABOVE. | |

NB: FAILURE TO PROVIDE ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.
NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE.

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

DATE:

PRICING SCHEDULE
(Professional Services)

| | |
|-----------------------|-------------------|
| NAME OF BIDDER: | BID: 30/18 |
| CLOSING TIME 12:00 | ON: 25 MARCH 2019 |

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

| ITEM NO | DESCRIPTION | BID PRICE IN RSA CURRENCY INCLUSIVE OF <u>VALUE ADDED TAX</u> |
|---------|-------------|---|
|---------|-------------|---|

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 VAT 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.....

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?
- 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.
.....
.....
.....

Any enquiries regarding bidding procedures may be directed to the –

SUPPLY CHAIN MANAGEMENT

Mr. P. Souden
Tel: 053 838 0946

Or for technical information –

Mr. C. Jones
Tel: 053 838 0911

DECLARATION OF INTEREST

- 1. No bid will be accepted from persons in the service of the state*.
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority and/or take an oath declaring his/her interest.

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

3.1 Full Name:

3.2 Identity Number:

3.3 Company Registration Number:

3.4 Tax Reference Number:

3.5 VAT Registration Number:

3.6 Are you presently in the service of the state* YES / NO

3.6.1 If so, furnish particulars.

.....
.....

3.7 Have you been in the service of the state for the past twelve months? YES / NO

3.7.1 If so, furnish particulars.

.....
.....

3.8 Do you, have any relationship

* MSCM Regulations: "in the service of the state" means to be -

- (a) a member of -
(i) any municipal council;
(ii) any provincial legislature; or
(iii) the national Assembly or the national Council of provinces;
(b) a member of the board of directors of any municipal entity;
(c) an official of any municipality or municipal entity;
(d) an employee of 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);
(e) a member of the accounting authority of any national or provincial public entity; or
(f) an employee of Parliament or a provincial legislature.

(family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid?

YES / NO

3.8.1 If so, furnish particulars.

.....
.....

3.9 Are you, aware of any relationship (family, friend, other) between a bidder and any persons in the service of the state who may be involved with the evaluation and or adjudication of this bid?

YES / NO

3.9.1 If so, furnish particulars

.....
.....

3.10 Are any of the company's directors, managers, principal shareholders or stakeholders in service of the state?

YES / NO

3.10.1 If so, furnish particulars.

.....
.....

3.11 Are any spouse, child or parent of the company's directors, managers, principal shareholders or stakeholders in service of the state?

YES / NO

3.11.1 If so, furnish particulars.

.....
.....

I, THE UNDERSIGNED (NAME)

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

I ACCEPT THAT THE STATE MAY ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE. (A FALSE DECLARATION MAY RESULT IN CANCELLATION OF CONTRACT AND BLACK LISTING)

.....
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
- b) Either the 80/20 or 90/10 preference point system will be applicable to this tender (*delete whichever is not applicable for this tender*).

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.

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

5. 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:

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

(Tick applicable box)

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

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

| Designated Group: An EME or QSE which is at last 51% owned by: | EME √ | QSE √ |
|--|--------------------------|--------------------------|
| Black people | <input type="checkbox"/> | <input type="checkbox"/> |
| Black people who are youth | <input type="checkbox"/> | <input type="checkbox"/> |
| Black people who are women | <input type="checkbox"/> | <input type="checkbox"/> |

| | | |
|---|--|--|
| 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 MUNICIPAL INFORMATION

Municipality where business is situated:

Registered Account Number:

Stand Number:.....

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

8.9 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.

WITNESSES

1.

2.

.....
SIGNATURE(S) OF BIDDERS(S)

DATE:

ADDRESS

.....

.....

CONTRACT FORM - RENDERING OF SERVICES

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

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

1. I hereby undertake to render services described in the attached bidding documents to (name of the institution)..... in accordance with the requirements and task directives / proposals specifications stipulated in Bid Number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid.

2. The following documents shall be deemed to form and be read and construed as part of this agreement:
 - (i) Bidding documents, viz
 - Invitation to bid;
 - Tax clearance certificate;
 - Pricing schedule(s);
 - Filled in task directive/proposal;
 - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2011;
 - Declaration of interest;
 - Declaration of Bidder's past SCM practices;
 - Certificate of Independent Bid Determination;
 - Special Conditions of Contract;
 - (ii) General Conditions of Contract; and
 - (iii) Other (specify)

3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.

4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfilment of this contract.

5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.

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

NAME (PRINT)

CAPACITY

SIGNATURE

NAME OF FIRM

DATE

| | |
|------------------|-------|
| WITNESSES | |
| 1 | ..... |
| 2 | ..... |
| DATE: | ..... |

CONTRACT FORM - RENDERING OF SERVICES

PART 2 (TO BE FILLED IN BY THE PURCHASER)

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

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

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

SIGNED AT ON

NAME (PRINT)

SIGNATURE

OFFICIAL STAMP

WITNESSES

1

2

DATE:

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- 1 This Municipal Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by municipalities and municipal entities 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 rejected if that bidder, or any of its directors have:
 - a. abused the municipality's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;
 - b. been convicted for fraud or corruption during the past five years;
 - c. willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - d. been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- 4 **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

| Item | Question | Yes | No |
|-------|---|---------------------------------|--------------------------------|
| 4.1 | <p>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?</p> <p>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p>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.</p> | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4.1.1 | If so, furnish particulars: | | |
| 4.2 | <p>Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</p> <p>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.</p> | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4.2.1 | If so, furnish particulars: | | |
| 4.3 | <p>Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?</p> | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

| | | | |
|-------------|--|---------------------------------|--------------------------------|
| 4.3.1 | If so, furnish particulars: | | |
| Item | Question | Yes | No |
| 4.4 | Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4.4.1 | If so, furnish particulars: | | |
| 4.5 | Was any contract between the bidder and the municipality / municipal entity or any other 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"/> |
| 4.7.1 | If so, furnish particulars: | | |

CERTIFICATION

**I, THE UNDERSIGNED (FULL NAME)
 CERTIFY THAT THE INFORMATION FURNISHED ON THIS
 DECLARATION FORM 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 Municipal Bidding Document (MBD) 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 Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
 - a. take all reasonable steps to prevent such abuse;
 - b. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
 - c. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.

- 4 This MBD 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 (MBD 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 Municipality / Municipal Entity)

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

Js9141w 4

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.

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General Conditions of Contract

1. Definitions

1. The following terms shall be interpreted as indicated:
 - 1.1 “Closing time” means the date and hour specified in the bidding documents for the receipt of bids.
 - 1.2 “Contract” means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
 - 1.3 “Contract price” means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
 - 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.