



agriculture, land reform
& rural development

Department:
Agriculture, Land Reform and Rural Development
REPUBLIC OF SOUTH AFRICA

KWAZULU-NATAL PROVINCIAL SHARED SERVICE CENTRE PRIVATE BAG X 9132, PIETERMARITZBURG, 3200
270 Jabu Ndlovu Street, PIETERMARITZBURG, 3201 Tel: (033) 264 9500

ENQUIRIES: Ms. T Zondi / Ms T Dlungwana

BID NO: SS-KZN 5/2/1 (6706) 3SP

The Managing Director

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

Dear Sir / Madam

INVITATION TO SUBMIT A QUOTATION FOR THE APPOINTMENT OF A SERVICE PROVIDER TO DEVELOP A MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK (SDF) FOR BIG 5 HLABISA LOCAL MUNICIPALITY (KZN 276), UMKHANYAKUDE DISTRICT MUNICIPALITY (DC 27), THE PROVINCE OF KWAZULU-NATAL FOR A PERIOD OF TWELVE (12) MONTHS

1. Bid No.: **SS-KZN 5/2/1 (6706) 3SP**
2. Closing Date: **10 July 2023 at 11h00 Telkom time**. Bids submitted after this date will not be accepted. Please note that vat vendors must include VAT at 15%.
3. **Compulsory Briefing session: 29 June 2023 at 11:00am Department of Agriculture Land Reform and Rural Development Offices, 270 Jabu Ndlovu Street, Pietermaritzburg**
4. The conditions contained in Supply Chain Management (General Conditions and Procedures) and the attached SBD 1, Pricing schedule (SBD 3.3), SBD 4, SBD 6.1, terms of reference / specifications, entity forms, as well as any other conditions accompanying this request are applicable. Documents are to be completed, signed and witnessed (this is of utmost importance) and submitted with your proposal. Proof of delegation of authority to sign the Bid documents must be included in your proposal.
5. If you are a shareholder or joint venture, it is essential that you indicate your percentage commission or profit before tax in order that the reasonableness of your bid price may be gauged. This information will be treated as strictly confidential. It is of utmost importance that the bidder should attach to the proposal, certified copies of shareholders certificates and identity documents.
6. **(Include the relevant Central Supplier Database summary report and the Tax compliance status pin or (valid tax clearance certificate)**
7. Please contact **Mr Stephanus Viljoen on 071 605 3674** for any technical queries related to the project.
8. All the documents accompanying this bid invitation must please be completed in detail where applicable and returned with your bid. Faxed / Email copies will not be accepted. The use of correction fluid on the bid document is prohibited.
9. The appointed service provider will be required to sign a contract at the KwaZulu-Natal Provincial Shared Service Centre at 270 Jabu Ndlovu Street, Pietermaritzburg before the commencement of the project. Provision must be made for this compulsory meeting.
10. Please ensure that your bid reaches this office before closing time.
11. When submitting your bid the following information must appear on the sealed envelope:
Name and address of the bidder
Bid number
Closing date
12. All bids/quotations are to be numbered and initialled and sent for the attention of the Procurement Section and placed in the bid box on the first floor at 270 Jabu Ndlovu (Loop) Street, Pietermaritzburg OR if posted, place the aforementioned envelope in a covering envelope addressed as follows:
Bids, Department of Agriculture, Land Reform and Rural Development, Private Bag X9132, Pietermaritzburg, 3200
13. The Department of Agriculture, Land Reform and Rural Development is not bound to accept the lowest or any quotation and reserves the right to accept any quotation or part thereof.

Kind regards



DIRECTOR: FINANCE AND SUPPLY CHAIN MANAGEMENT, PSSC KZN
FOR DIRECTOR -GENERAL: DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL
DEVELOPMENT

DATE: 26/06/2023

LAND REFORM AND RURAL

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)			
BID NUMBER:	SS-KZN 5/2/1 (6706) 3SP	CLOSING DATE: 10 JULY 2023	CLOSING TIME: 11H00
DESCRIPTION	INVITATION TO SUBMIT A QUOTATION FOR THE APPOINTMENT OF A SERVICE PROVIDER TO DEVELOP A MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK (SDF) FOR BIG 5 HLABISA LOCAL MUNICIPALITY (KZN 276), UMKHANYAKUDE DISTRICT MUNICIPALITY (DC 27), THE PROVINCE OF KWAZULU-NATAL, WITHIN A PERIOD OF TWELVE (12) MONTHS		
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)			
1 st Floor, 270 Jabu Ndlovu Street, Pietermaritzburg, 3200			
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO		TECHNICAL ENQUIRIES MAY BE DIRECTED TO:	
CONTACT PERSON	Ms T Dlungwana	CONTACT PERSON	Mr Stephanus Viljoen
TELEPHONE NUMBER	033 264 9535	TELEPHONE NUMBER	071 605 3674
FACSIMILE NUMBER		FACSIMILE NUMBER	
E-MAIL ADDRESS	thokozile.dlungwana@dalrrd.gov.za	E-MAIL ADDRESS	stephanus.viljoen@dalrrd.gov.za
SUPPLIER INFORMATION			
NAME OF BIDDER			
POSTAL ADDRESS			
STREET ADDRESS			
TELEPHONE NUMBER	CODE	NUMBER	
CELLPHONE NUMBER			
FACSIMILE NUMBER	CODE	NUMBER	
E-MAIL ADDRESS			
VAT REGISTRATION NUMBER			
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:	OR	CENTRAL SUPPLIER DATABASE No: MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No	B-BBEE STATUS LEVEL SWORN AFFIDAVIT	[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]			
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS			
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?			<input type="checkbox"/> YES <input type="checkbox"/> NO
DOES THE ENTITY HAVE A BRANCH IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?			<input type="checkbox"/> YES <input type="checkbox"/> NO
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.			

**PART B
TERMS AND CONDITIONS FOR BIDDING**

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

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

SIGNATURE OF BIDDER:

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

DATE:

PRICING SCHEDULE
(Professional Services)

NAME OF BIDDER:	BID NO.: SS-KZN 5/2/1 (6706) 3SP
CLOSING TIME: 11:00 on 10 July 2023	

OFFER TO BE VALID FOR **60** DAYS FROM THE CLOSING DATE OF BID.

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY			
		INCLUSIVE	OF	VAT	AT 15%

INVITATION TO SUBMIT A QUOTATION FOR THE APPOINTMENT OF A SERVICE PROVIDER TO DEVELOP A MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK (SDF) FOR BIG 5 HLABISA LOCAL MUNICIPALITY (KZN 276), UMKHANYAKUDE DISTRICT MUNICIPALITY (DC 27), THE PROVINCE OF KWAZULU-NATAL, WITHIN A PERIOD OF TWELVE (12) MONTHS

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 at 15% 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.....	.....
.....	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
.....	R.....	..... days
.....	R.....	..... days
.....	R.....	..... days
.....	R.....	..... days

6. Period required for commencement with project after Acceptance of bid

Name of Bidder:

- 7. Estimated man-days for completion of project
- 9. Adherence to Time Frame as per terms of reference (yes/no)
- 10 Availability to attend meetings as indicated in the terms of reference
- (The costs thereof to be included in total bid price)

Any enquiries regarding bidding procedures may be directed to the –

**Department of Agriculture, Land Reform and Rural Development
PSSC**

**Ms Thokozile Dlungwana
Tel: 033 264 9536**

Or for technical information

**Mr Stephan Viljoen
Tel: 071 605 3674**

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

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

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

2. Bidder's declaration

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

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

Full Name	Identity Number	Name of State institution

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

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

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

2.2.1 If so, furnish particulars:

.....
.....

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

2.3.1 If so, furnish particulars:

.....
.....

3 DECLARATION

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

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

² Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

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

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

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

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

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

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

PRICE QUOTATION PROCESS (UP TO R 1 MILLION)

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

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

1. GENERAL CONDITIONS

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

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

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

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

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

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

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

The maximum points for this tender are allocated as follows:

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

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

- 1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.
- 1.7 Bidders who wish to claim points in terms of table 4.2 below need to provide proof for each point claimed as guided below:
 - Who had no franchise in national elections before the 1983 and 1993 Constitution – **attach certified copy of identity document (ID) and company registration document / CSD report to show/ substantiate percentage ownership equity.**
 - Who is female- **attach certified copy of identity document (ID) and company registration document / CSD report to show/ substantiate percentage ownership equity.**
 - Who has a disability – **attach doctor’s letter confirming the disability**
 - Who is youth - **attach certified copy of identity document (ID) and company registration document / CSD report to show/ substantiate percentage ownership equity.**

2. DEFINITIONS

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

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

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

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

80/20 or 90/10

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

Where

- P_s = Points scored for price of tender under consideration
 P_t = Price of tender under consideration
 P_{min} = Price of lowest acceptable tender

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

3.2.1. POINTS AWARDED FOR PRICE

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

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

Where

- P_s = Points scored for price of tender under consideration
 P_t = Price of tender under consideration
 P_{max} = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
- (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

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

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

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

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system)	Percentage ownership equity (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
I. Who had no franchise in national elections before the 1983 and 1993 Constitution	10		
II. Who is female	5		
III. Who has a disability	2		
IV. Specific goal: Who is youth	3		

DECLARATION WITH REGARD TO COMPANY/FIRM

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

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

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

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;

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

.....
SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME:

DATE:

ADDRESS:

.....

.....

.....

.....



**agriculture, land reform
& rural development**

Department
Agriculture, Land Reform and Rural Development
REPUBLIC OF SOUTH AFRICA

Directorate: Spatial Planning and Land Use Management, KwaZulu-Natal, Branch SPLUM,
83 Peter Kerchhoff (Chapel) Street, Pietermaritzburg, Private Bag X9000, Pietermaritzburg, 3200.
Tel (033) 264 1400, Fax (033) 264 1413.

**TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER TO DEVELOP
A MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK (SDF) FOR BIG 5 HLABISA LOCAL
MUNICIPALITY (KZN 276), UMKHANYAKUDE DISTRICT MUNICIPALITY (DC 27), THE
PROVINCE OF KWAZULU-NATAL FOR A PERIOD OF TWELVE (12) MONTHS**

1 INTRODUCTION

- 1.1 The Department of Agriculture Land Reform and Rural Development (DALRRD / the Department) seeks to enlist the services of an experienced and suitably qualified, competent, professional service provider to undertake the development of a Spatial Development Framework (SDF) for the Big 5 Hlabisa Local Municipality situated in the Province of KwaZulu-Natal.

2 LEGISLATIVE CONTEXT

- 2.1 With the enactment of the Spatial Planning and Land Use Management Act (SPLUMA) in 2013, a new planning regime was introduced in South Africa. It replaced disparate apartheid era laws with a coherent legislative system designed to spatially transform the country in its democratic era.
- 2.2 Chapter 4 of the Spatial Planning and Land Use Management (SPLUMA) Act No 16 of 2013 requires National, Provincial and Local Municipalities to prepare Spatial Development Frameworks (SDFs).
- 2.3 The National Development Plan sets the country's strategic direction, Chapter 5 of the NDP focuses on environmental sustainability and resilience through an equitable transition to a low-carbon economy, which will also have implications on the way spatial planning and development in South Africa is approached. Chapter 6 sets out specific targets and goals towards establishing a more inclusive rural economy through integrated rural development and Chapter 8, which focuses on the country's spatial planning system, requires that:
- 2.3.1 All municipal and provincial SDFs are translated into 'spatial contracts that are binding across national, provincial and local governments;
 - 2.3.2 The current planning system should 'actively support the development of plans that cross municipal and even provincial boundaries', especially to deal with biodiversity protection, climate-change adaptation, tourism and transportation; and
 - 2.3.3 Every municipality should have an 'explicit spatial restructuring strategy' which must include the identification of 'priority precincts for spatial restructuring'.

- 2.4 To give spatial expression to the NDP the Department has prepared the National Spatial Development Framework, KZN COGTA have also prepared the KZN Provincial Spatial Development Framework, which was adopted by the Provincial Government.
- 2.5 Section 20 (1) of SPLUMA requires the Municipal Council of a municipality by notice in the Provincial Gazette to adopt a municipal spatial development framework for its municipality.
- 2.6 Section 20 (2) states that the municipal spatial development framework must be prepared as part of a municipality's integrated development plan in accordance with the provisions of the Municipal Systems Act, 2000 (Act 32 of 2000).
- 2.7 Section 26 (d) of the Local Government: Municipal Systems Act, No. 32 of 2000 (MSA) stipulates that the council's development strategies must be aligned with any national or provincial sectoral plans and planning requirements binding on the municipality in terms of legislation;
- 2.8 Section 26 (e) of the Local Government: Municipal Systems Act, No. 32 of 2000 (MSA) stipulates that all Municipalities are required to compile Spatial Development Frameworks (SDFs) as a core component of their Integrated Development Plans (IDPs).
- 2.9 The Big 5 Hlabisa Local Municipality currently have an adopted a Spatial Development Framework for the period 2014-2019 which was last reviewed during the 2016/2017 financial year. The Municipality therefore requires support for the adoption of new SDF 2024/2029.
- 2.10 The former Department of Rural Development and Land Reform (DRDLR) now the Department of Agriculture Land Reform and Rural Development (DALRRD) developed a Spatial Development Framework guideline document dated 2017 to assist practitioners and the various spheres of government with the process of preparing Spatial Development Frameworks.

3 PROBLEM STATEMENT

- 3.1 Many Municipalities in the past have developed SDFs, either in silos or supported (technically and/or financially) by National or Provincial government with differentiated approaches undertaken to develop the SDF this was further aggravated due to a lack of comprehensive guidelines for the development of SDFs. Some SDF documents have been detailed enough to inform decision making while others only provide a broader framework found to be difficult in effectively facilitating implementation of government programmes.
- 3.2 Various shortcomings have been depicted in most SDF documents the Department participates in the COGTA IDP assessments which involves the analysis of SDFs on an annual basis which revealed many shortcomings in terms of the requirements set out in SPLUMA and the MSA and are therefore non-compliant with the provisions of the applicable legislation.

- 3.3 The problem is compounded by the fact that capacity, both to plan and implement plans in municipalities remain a challenge. Therefore, the project provides an opportunity for the Department to assist the municipality with meeting the legislative requirements that govern the preparation of Spatial Development Frameworks and provide a plan to guide the spatial transformation of the Big 5 Hlabisa Local Municipality.

4 PROJECT BACKGROUND

- 4.1 The Department of Agriculture Land Reform and Rural Development received a request from the Big 5 Hlabisa Local Municipality to provide financial support for the development of a Spatial Development Framework for its Municipal area in line with the provisions of the Spatial Planning and Land Use Management Act No 16 of 2013.
- 4.2 Section 21 of SPLUMA sets out the content of a Municipal SDF which must be incorporated within the development of the SDF.
- 4.3 KZN COGTA conducts an annual assessment of Municipal IDP's, in which Municipal SDFs are assessed as a key component to the IDP. The outcomes of the assessment in which the department is involved indicates that the Big 5 Hlabisa LM SDF is partially compliant with the provisions of section 21 of SPLUMA hence the need to assist the municipality in ensuring compliance with the relevant legislation related to the development of SDFs.

5 LOCATIONAL CONTEXT – PROJECT AREA

- 5.1 Big 5 Hlabisa Municipality is one of four local Municipalities in the uMkhanyakude District Municipality. The uMkhanyakude District consists of four local Municipalities namely: Big 5 Hlabisa, Umhlabuyalingana, Jozini and Mtubatuba local municipalities.
- 5.2 The Big 5 Hlabisa Municipality's land area is approximately 3470 km². According to the 2011 Stats SA Census, the population of Big 5 Hlabisa totaled 107,147 people. Noting uMkhanyakude had a total population of 689,090 people as per community survey 2016 data.
- 5.3 Big 5 Hlabisa Local Municipality consist of thirteen (13) wards and 25 Councilors as a result participation and consultation will need to be addressed in a clear manner in the Communication Plan.
- 5.4 The municipality also has six Traditional Authorities namely Makhasa, Nibela, Mngobokazi, Mpembeni, Matshamnyama and Mdletsheni Traditional Council. The name of the municipality is reflective of the historical context of the two former municipalities. The Municipality is predominantly rural with only one semi-urban area being Hluhluwe in ward 5.

Figure 1: Provincial & District Context – Big 5 Hlabisa LM



Source: Municipalities of South Africa

6 THE OBJECTIVES OF THE PROJECT

- 6.1 The Primary objective of the project is to develop a credible SDF for the Big 5 Hlabisa Local Municipality that is legally compliant with the relevant legislation i.e., SPLUMA and MSA, and a spatial tool that can be implemented to achieve the desired spatial form envisioned for the Big 5 Hlabisa Local Municipality.
- 6.2 The process for developing the SDF should be guided by the Spatial Development Framework guidelines 2017 prepared by the former Department of Rural Development and Land Reform (DRDLR) as one of the guiding tools.
- 6.3 Compliance with requirements set out under Chapter 4 of SPLUMA is Mandatory.
- 6.4 The SDF must give effect to the content set under section 21 of SPLUMA which states that a municipal spatial development framework must:
- 6.4.1 Give effect to the development principles and applicable norms and standards set out in Chapter 2;
 - 6.4.2 Include a written and spatial representation of a five-year spatial development plan for the spatial form of the municipality;
 - 6.4.3 Include a longer-term spatial development vision statement for the municipal area which indicates a desired spatial growth and development pattern for the next 10 to 20 years;
 - 6.4.4 Identify current and future significant structuring and restructuring elements of the spatial form of the municipality, including development corridors, activity spines and economic nodes where public and private investment will be prioritised and facilitated;

- 6.4.5 Include population growth estimates for the next five years;
 - 6.4.6 Include estimates of the demand for housing units across different socioeconomic categories and the planned location and density of future housing developments;
 - 6.4.7 Include estimates of economic activity and employment trends and locations in the municipal area for the next five years;
 - 6.4.8 Identify, quantify and provide location requirements of engineering infrastructure and services provision for existing and future development needs for the next five years;
 - 6.4.9 Identify the designated areas where a national or provincial inclusionary housing policy may be applicable;
 - 6.4.10 Include a strategic assessment of the environmental pressures and opportunities within the municipal area, including the spatial location of environmental sensitivities, high potential agricultural land and coastal access strips, where applicable;
 - 6.4.11 Identify the designation of areas in the municipality where incremental upgrading approaches to development and regulation will be applicable;
 - 6.4.12 Identify the designation of areas in which—
 - 6.4.12.1 More detailed local plans must be developed; and
 - 6.4.12.2 Shortened land use development procedures may be applicable and land use schemes may be so amended;
 - 6.4.13 Provide the spatial expression of the coordination, alignment and integration of sectoral policies of all municipal departments;
 - 6.4.14 Determine a capital expenditure framework for the municipality's development programmes, depicted spatially;
 - 6.4.15 Determine the purpose, desired impact and structure of the land use management scheme to apply in that municipal area; and
 - 6.4.16 include an implementation plan comprising of:
 - 6.4.16.1 sectoral requirement, including budgets and resources for implementation;
 - 6.4.16.2 necessary amendments to a land use scheme;
 - 6.4.16.3 specification of institutional arrangements necessary for implementation;
 - 6.4.16.4 specification of implementation targets, including dates and monitoring indicators; and
 - 6.4.16.5 specifications, where necessary, of any arrangements for partnerships in the implementation process.
- 6.5 Compliance with the provisions of the Municipal Systems Act and the Municipal Planning and Performance Management Regulations must be adhered to.
- 6.6 The SDF must give effect to the 5 development principles contained the Spatial Planning and Land Use Management Act No 16 of 2013:
- i. Spatial Justice;
 - ii. Spatial Sustainability;
 - iii. Efficiency;
 - iv. Spatial Resilience; an
 - v. Good Administration

- 6.7 Alignment to National and Provincial, District and Municipal Plans and Policies which including but not limited to, the National Development Plan, National, Provincial and District Spatial Development Framework, Provincial Growth and Development Strategy, District Development Model, District and Municipal IDP, District Growth and development strategy, Provincial Transportation Plan etc.
- 6.8 The SDF should also consider various plans Developed at District level that impacts on the spatial structure and functioning of the Municipality, such as a LED Strategy, an Integrated Transport Plan etc. Although the SDF needs to align to these, the SDF also needs to inform the update thereof where necessary.
- 6.9 Give effect to the provincial norms and standards not limited to the list: Spatial Equity Tool, Environmental Climate Change and Cemeteries and Crematoria.
- 6.10 The SDF to be used as a tool to revive the agriculture sector and have spin offs to the existing agriculture activities.
- 6.11 Give guidance to new networks that will link future economic activities to people and other affected land uses.
- 6.12 The SDF should identify future potential areas of growth and give direction on future spatial development within the municipality.

7 CRITICAL MILESTONES

- 7.1 The following seven critical milestones/phases as stipulated in the Spatial Development Framework Guidelines of the **erstwhile** Department of Rural Development and Land Reform shall be achieved by each SDF:
 - 7.1.1 Phase 1: Start Up
 - 7.1.2 Phase 2: Policy context and vision directives
 - 7.1.3 Phase 3: Spatial challenges and opportunities
 - 7.1.4 Phase 4: Spatial proposals
 - 7.1.5 Phase 5: Implementation Framework
 - 7.1.6 Phase 6: Consultation
 - 7.1.7 Phase 7: Final MSDF
 - 7.1.8 Phase 8: Close out
- 7.2 Details pertaining to the relevant deliverables for each milestone are contained below, each service provider is expected to consult the SDF guideline document 2017 while preparing the proposals and when executing the project. The information below is the minimum requirements. Bidders may improve and add to this proposal.
- 7.3 Preferably the PSC meetings for the Inception phase and the Close-out Phase should be physical meetings.

PHASE 1: START UP – 2 WEEKS

Step 1: Inception Report, Communication Plan, Project GANTT chart

- Agree on the scope of work with sector stakeholders and include the scope of work in a Service Level Agreement and Memorandum of Understanding with the service provider.
- The service providers will prepare a detailed project work plan and Gantt chart, in the form of an Inception Report, detailing the specific actions and date-specific time frames of the project. The report will include the proposed actions and steps to be undertaken during the whole of the project and by whom.
- A Communication Plan will be developed detailing the stakeholders / engagements (i.e., people, organisations, interested and affected parties, including traditional councils (if applicable) and Ward committees to be engaged while preparing the SDF, both during the drafting phases, and once the draft SDF has been developed, to ensure buy-in from all stakeholders. The communication plan also needs to indicate reporting lines, contact details, and PSC dates to monitor progress.
- Set up project steering committee.
- Initiate data collection process and identify data required for the process.

Step 2: Presentation to Project Steering Committee

- Presentation of Inception Report and consultative process to be followed, resulting in consensus being reached and the Department giving written acceptance of the Inception Report.
- Set up Project Management team (technical meeting) and agree on number of meetings to be held during project cycle.

Step 3: Presentation to Municipal council

- A presentation of the project should be conducted to the Municipal council to inform them of the project that has commenced. More than one presentation might be required in order to follow protocols, e.g., present to the Planning Portfolio Committee and the Executive Council before the project is presented to the Full council.
- This step may take place after the two (2) week period has lapsed.

Deliverable: Inception Report detailing the process to be followed, inclusive of a Communication Plan with internal and external stakeholders and project GANTT chart. List of data collected. One (1) week to prepare the document, convene a PSC, and one (1) week to amend and submit the final document.

Consultation: Sector departments and Municipal Council.

PHASE 2: POLICY CONTEXT AND VISION DIRECTIVES – 1 MONTH

Step 1: Review and Synthesise Legislative & Policy Context

- Synthesise the legislative and policy context through considering relevant national and provincial and municipal policy directives.
- Ensure alignment with Provincial Norms and Standards.
- Outline the spatial directives emanating from the national, provincial and municipal spatial policy review and show how it impacts and relates to the municipal SDF via a Logical Framework.

Step 2- Formulate Draft Vision

- Hold initial discussions on the key spatial issues that need to be addressed to discuss and collaboratively develop a draft vision for the municipal area.

Step 3 – PSC meeting

- Presentation to the PSC on the Policy context and vision directives report.

Deliverable: Consolidated report on the Policy context and vision directives.

Consultation: Engage with a focused group of PSC Stakeholders including municipal and sector departments, public entities, community representatives and other related bodies based on the context of the municipality.

PHASE 3: SPATIAL CHALLENGES AND OPPORTUNITIES – 2 MONTHS

Step 1 – IDP and Sector Plan inputs

- Review the most recent IDP as well as all relevant municipal sector plans and sector plans of surrounding municipalities in terms of the strategic focus and the key challenges identified.
- The recent SDF assessment and respective MEC comments should also guide the review of the SDF.
- The COGTA SDF assessment template will be made available to the service provider to ensure all bases are covered for assessment.
- SDFs and Spatial Proposals from adjacent Municipalities to be considered to ensure alignment.

Step 2 – Biophysical, Socio Economic and Built environment analysis

- Documentation and mapping of biophysical spatial challenges and opportunities.
- Conduct a strategic analysis of the socio-economic situation of the municipality in terms of legacy, current and future challenges.
- Conduct a strategic analysis of the built environment elements of the municipality in terms of legacy, current and future challenges.

Step 3 – SWOT analysis

- SWOT analysis based on the analysis conducted for the bio-physical, built and socio-economic environment.

Step 4 – PSC meeting

- Presentation to PSC on the consolidated report.

Deliverable: Consolidated report on the spatial challenges and opportunities.

Consultation: Engage with municipal and sector departments, public entities, community representatives and all other related bodies based on the context of the municipality. This will include engagements with all the individual Traditional Councils.

PHASE 4: SPATIAL PROPOSALS – 2 MONTHS

Step 1- Spatial concept and final Vision

- To move towards the vision aspired to, a conceptual framework needs to be formulated based on the synthesis of the key challenges and opportunities from Phase 3.
- Update the draft vision as developed during Phase 2 to align with the spatial concept (if required).

Step 2 – Spatial Strategies

- Develop spatial strategies which support the spatial concept and are in line with the development vision for the municipal Integrated Development Plan that redress/address/mitigate against the challenges and unlock the opportunities identified in step 1 above.

Step 3 – Draft MSDF

- Combine the spatial strategies into a composite MSDF map.
- Develop more detailed proposals for settlements within the municipal jurisdiction based on the SDF strategies after developing the composite MSDF.
- Compile all the elements of Phase 2 and Phase 3 into a draft MSDF report.

Step 4 – PSC meeting

- Present consolidated the draft MSDF document.

Deliverable: Draft MSDF document consolidated containing spatial strategies and final vision.

Consultation: Facilitate and convene specialist discussions and/or focus group meetings to discuss key sectoral and area-based strategies and proposals of the draft MSDF.

PHASE 5 – IMPLEMENTATION FRAMEWORK – 2 MONTHS

Step 1 - Supporting Policies

- Develop a set of policies that will support the implementation of the spatial proposals as contained within the MSDF.

Step 2 - Supporting Guidelines

- Develop a set of guidelines that will support the implementation of the spatial proposals as contained within the MSDF.

Step 3 – Capital Investment Framework (short term - 5 years) and Capital Expenditure Framework (long term vision – 20 to 30 years)

- Develop a capital investment framework and capital expenditure framework that identifies priorities, institutional arrangements, and implementation requirements and possible funding agents.
- Capital Expenditure Framework must align with the “One Plan” (2050 or the 20-to-30-year vision).

Step 4: Draft Implementation Framework

- Compile the supporting policies and guidelines as well as the capital investment framework into a consolidated draft implementation framework.

Deliverable: Consolidated Draft Implementation Framework report

Consultation: Engage with municipal and sector departments, public entities, community representatives and all other related bodies based on the context of the municipality.

PHASE 6: CONSULTATION – 3 MONTHS

Step 1 – Presentation to Council

- Presentation of the Final Draft to the Big 5 Hlabisa LM Municipal Council to obtain a Council Resolution, allowing for a notice to be Published in the Gazette that the Big 5 Hlabisa LM intends to develop a Spatial Development Framework.

Step 2 – Advertisement and meetings

- Give notice of the proposed municipal spatial development framework in the *Gazette* and the media.
- Invite the public to submit written representations in respect of the proposed municipal spatial development framework to the Municipal Council within 60 days after the publication of the notice.
- Conduct Public meetings with various stakeholders, ward meetings, etc.
- Present to each individual Traditional Council within the Municipality.

Step 3 – Consider and Incorporate Comments

- Consider all representations received in respect of the proposed municipal spatial development framework.

Step 4 – Consultation report

- Prepare consultation report based on various engagements held during phase 6.

Deliverable: consolidated consultation report.

PHASE 7; FINAL SDF – 1 MONTH

Step 1: Sector Plan Alignment

- Facilitate follow-up discussions with the relevant municipal departments to discuss required alignment interventions to ensure that the MSDF proposals are incorporated into all relevant sector plans.

Step 2: Priority Local Plans

- Initiate the delineation and implementation of the required local area plans or precinct plans as set out in the capital investment framework.

Step 3: Capital Investment Framework into IDP

- Ensure that the key proposals contained within the capital investment framework is fed into the next review of the IDP through facilitating discussions with relevant municipal officials.

Step 4: Final MSDF

- Refine, update, and finalise the draft MSDF and implementation framework.
- Prepare summary pamphlets, A4 Double Sided (25 in English and 25 in isiZulu) and 4 x Posters (2 in English and 2 in isiZulu) of the key spatial proposals contained within the MSDF report in English and isiZulu.
- Posters and Pamphlets to be submitted in electronic format as well for ease of reproduction by the Municipality.

Step 5: PSC meeting

- Present final MSDF to PSC for Endorsement.

Step 6: Council Adoption

- Submit the final MSDF report and brochures to the local municipal officials and Council for approval.

NB: It should be noted that in terms of SPLUMA a gazette notice must be published once the SDF has been adopted by council.

Deliverable: Final MSDF document and composite map. SDF Chapter for inclusion into the IDP

PHASE 8 – CLOSE OUT – 2 WEEKS

The final delivery consists of:

- Council Resolution (If taken by council within the timeframes of the project)
- Close out report outlining:
 - Overview of process followed
 - Summary of meetings dates
 - Summary of Payment dates
 - Challenges & Lessons learned
 - Actions required in obtaining final Council Resolution adopting the SDF, if council did not take any decision.
- PSC meeting to conclude the project.

Deliverable: Close-out report with final submission documents.

8 OUTCOMES AND FINAL DELIVERABLES

- 8.1 The SDF should seek to influence the overall spatial distribution of current and future land use within a municipality.
- 8.2 The SDF should respond to the government strategic priorities from National, Provincial and local (NDP, NSDF, PSDF, PGDS, PSEDS, DGDP, IDP, etc.). The end product must contribute positively towards local economic development, sustainable livelihoods in rural areas, poverty alleviation, alleviating high unemployment, water and sanitation service delivery, and One Plan / DDM.
- 8.3 The SDF must give effect to the requirements set out under section 21 of SPLUMA.
- 8.4 The SDF must be both a vertical and a horizontal alignment tool for government wide activities, plans, policies and legislation. It must be a tool to facilitate structured implementation of programmes and be an effective decision-making instrument.
- 8.5 Improved Comprehensive LUS guidelines are expected out of the process of formulating the SDFs.
- 8.6 All objectives of the project as stipulated in this Terms of Reference should be met. A document with clear deliverables is expected. The SDF document should indicate all cross-border issues, challenges and alignment of programmes shared with neighbouring municipalities.
- 8.7 It is recommended that more visual representation (maps, graphics and photographs) form the bulk part of the spatial analysis/current reality and the conceptual framework section of the SDF. A text box or other mechanisms may be used to provide an explanation, relevant information or analysis.
- 8.8 Required copies of the SDF document for consultation purposes shall be prepared by the service provider. The copies shall be distributed a week prior to the meeting taking place.

8.9 Final Deliverables

- 8.9.1 SDF document in both hardcopy (printed) and softcopy (electronic as MS word and PDF document);
- 8.9.2 A0 SDF Map;
- 8.9.3 A separate Executive Summary Document;
- 8.9.4 A public consultation report;
- 8.9.5 All maps contained in the SDF textual document as electronic image files (e.g., JPEG, windows Bitmap, GIF, etc.);
- 8.9.6 All spatial information used to generate the SDF maps must be provided in the correct GIS format (as outlined in section 9 of this document) and map packages viewable in a user-friendly GIS Viewer.

8.10 The format of the submission will be as follows:

- 8.10.1 3 x Hardcopies of the SDF document.
- 8.10.2 3 x Hard Copies of the Composite SDF Map (A0 size).
- 8.10.3 3 x Flash drives with Electronic Copies of the maps and documents in the following formats:
 - 8.10.3.1 Maps - JPEG / TIFF & PDF
 - 8.10.3.2 Reports - MS Word & PDF Format
- 8.10.4 3 x Flash drives with all maps in an ArcGIS Map Package format. Metadata must be provided for all derivative data sets according to the applicable metadata standards of the Republic as published by the Committee for Spatial Information (CSI).

9 FORMAT OF GIS DATA

- 9.1 All GIS data used and created during the course of the project will be provided in a format which is compatible to the client's systems, but as a minimum be submitted as follow:
 - 9.1.1 A GIS database (MS Access database, Geodatabase and ESRI ARCGIS Map package); and,
 - 9.1.2 Spatial data in a Geographic WGS84 (Hartebeesthoek 1994) spheroid.
 - 9.1.3 Metadata records must be captured in line with the South Africa National Standard (SANS -1878).
 - 9.1.4 Spatial information captured must be in line with Regulation 5(2) of the Spatial Data Infrastructure Act, 2003.
- 9.2 At the end of each phase GIS Deliverables needs to be submitted to allow for review as the project evolves
- 9.3 All works relating to spatial information remains the property of the state and shall be disseminated in line with the policy on pricing of spatial information products and services.

10 PROJECT DURATION AND COST

10.1 It is expected that the project be completed in a period of 12 months effective from the date of appointment. The target dates for each milestone (as well as the associated deliverable) and the amount of financial compensation for the work done is scheduled under Table 1.

Table 1 - Project Cost allocation and Timeframe

Project Phase	% Allocation	Timeframe
Phase 1: Start up	5%	2 weeks
Phase 2: Policy context and Vision Directives	5%	1 month
Phase 3: Spatial challenges and opportunities	20%	2 months
Phase 4: Spatial Proposals	20%	2 months
Phase 5: Implementation Framework	10%	2 months
Phase 6: Consultation	10%	3 months
Phase 7: Final MSDF	10%	1 month
Phase 8: Close out	15%	2 weeks
Retention	5%	
Total	100%	12 Months

10.2 Timeframes must be adhered to, failure of which financial implications will be imposed for any delay or non-compliance with time and quality requirements.

10.3 The amount for the final draft is payable upon approval of the document by the Project Steering Committee.

10.4 The tender amount should be inclusive of all disbursements (Travel and Accommodation / Phone Calls & Communications / Printing & Reproduction) as these will not be paid separately.

11 FINANCIAL PENALTIES

11.1 Financial penalties shall be imposed for agreed upon milestones, targets, and deadline not met without providing:

11.1.1 Timely notification of such delays.

11.1.2 Valid reasons for the delays.

11.1.3 Supporting evidence that the delays were outside of the influence of the service provider.

11.2 Financial penalties will be imposed if the outputs produced do not meet the agreed upon deliverables criteria as stipulated in the General Conditions of Contract.

12 UNDUE DELAY REMEDIES

- 12.1 Should it be found that the delay of the project in terms of the agreed period is unreasonable then penalties in terms of percentages which will be deducted from the payment will be applied as indicated below:

Table 2 – Undue Delay Remedies

Milestone	% Payment	5 days overdue	10 days overdue	15 days overdue	30 days overdue	More than 30 days overdue
PHASE 1 Start up	5%	10%	25%	50%	75%	100%
PHASE 2 Policy context and vision directives	5%	10%	25%	50%	75%	100%
PHASE 3 Spatial challenges and opportunities	20%	10%	25%	50%	75%	100%
PHASE 4 Spatial proposals	20%	10%	25%	50%	75%	100%
PHASE 5 Implementation	10%	10%	25%	50%	75%	100%
PHASE 6; consultation	10%	10%	25%	50%	75%	100%
PHASE 7: Final MSDF	10%	10%	25%	50%	75%	100%
PHASE 8 Hand over and close out	15%	10%	25%	50%	75%	100%
Retention	5%					
Total	100% S					

13 PAYMENTS AND SUBMISSION OF INVOICES

- 13.1 Payments will be made on a work completed basis, i.e., on set milestones as per the project plan, and must be to the satisfaction of the Department of Agriculture Land Reform and Rural Development (DALRRD). The Project Steering Committee will need to take a resolution concerning the work undertaken by the service provider, as well as the authorisation of payment for work completed during that phase. This resolution will then be reflected in the minutes of the meeting. The minutes will be submitted as part of the documentation required in order to process payment.
- 13.2 Original copies of invoices to substantiate costs must be provided. The service provider's invoices should include the Department's order number that will be provided to the selected service provider upon acceptance of the quotation.

- 13.3 In order to ensure timeous processing of payments PSC meetings needs to be scheduled within the 3rd week of the applicable month.
- 13.4 Payment will be made on the basis of approved work in progress with a ceiling of 95% of the project cost. The balance (5% retention) of the project cost will only be paid on the approved final report being received.

14 BUDGET

- 14.1 The service provider shall compile a detailed breakdown of costs and submit it together with the proposal. Competitive pricing and functional competence of the service provider will be major considerations in the evaluation of proposals.

15 RETENTION

- 15.1 The service provider shall forfeit the total payment per milestone in the case of the project being delayed for longer than 30 days after milestone due date.
- 15.2 The service provider may apply to the Department for an extension on the delivery date on any milestone – provided that the service provider gives valid reason(s) to the sole satisfaction of the Department.

16 EXTRA WORK

- 16.1 Any costs for extra work by the service provider, incurred over and above this quotation which, in the sole opinion of the Chief Director: Integrated Spatial Planning are due to reasons attributable to the service provider during any phase of the project shall be borne by the service provider.

17 PROJECT MANAGEMENT

- 17.1 This project will be managed by the Department of Agriculture Land Reform and Rural Development, with the following representations but not limited to who may form part of the Project steering committee:
- 17.1.1 National Departments with a Provincial Footprint.
 - 17.1.2 Department of Agriculture Land Reform and Rural Development (SPLUM & Regional Shared Services Centre Directors (RSSCs)).
 - 17.1.3 Representative from KZN COGTA (Spatial Planning).
 - 17.1.4 Representatives from other Provincial Departments.
 - 17.1.5 District Municipality.
 - 17.1.6 Local Municipality.
 - 17.1.7 Parastatals (Eskom, Ezemvelo KZN, etc.)

18 MANDATORY REQUIREMENT FOR SUPPLY CHAIN MANAGEMENT

Signed Form of Offer and Acceptance (Valid completed SBD3.3 Document)
Valid Compliance Tax Status Pin / Central Supplier Database Report
Accreditation with the relevant Professional Board <ul style="list-style-type: none"> • Project Leader – South African Council for Planners (SACPLAN) • GIS Practitioner – South African Geo-Science Council (SAGC, previously PLATO)
Signed Company Resolution or Letter of Authority to sign on behalf of the firm
Permanent Office in KZN – Rental Agreement or Municipal Account
Compulsory Briefing Session Attended

- Use of correctional fluid in the document will disqualify the submission from further consideration.

19 SKILL REQUIREMENTS FOR PROJECT TEAM

- 19.1 The successful service provider will be expected to have an understanding of and experience in spatial planning legislation of the country. The service provider should have experience in auditing projects, ability to interact with a variety of stakeholders as well as good research and report writing skills.
- 19.2 The team leader must have knowledge and experience of Spatial Planning; Land Use Management; Land Development; Laws related to the previous mentioned.
- 19.3 The team leader must have expertise in managing and coordinating a multi-disciplinary project team (Project management skills).
- 19.4 The team must be experienced in Strategic Planning including scenarios and futures planning.
- 19.5 The team must have a thorough understanding of political environment and Intergovernmental Relations Framework.
- 19.6 The preferred team should consist of a Town Planner, Engineer, Environmentalist, GIS Practitioner, Economist.

20 HUMAN RESOURCES FOR THE PROJECT

- 20.1 The service provider is expected to provide information on available human resource capacity that will be directly involved per project, including but not limited to a comprehensive curriculum Vitae (CV) for each of the team members, indicating relevant qualifications and experience as required by this Terms of Reference; full contact details (office, fax and cell phone, and email), and the role to be fulfilled in this project.
- 20.2 The team leader and selected team members shall stay the same for the duration of the project and cannot be changed without prior discussions with and approval from the DALRRD.

- 20.3 It is expected that the team leader will be available for all meetings and engagements where he or she will present in detail the deliverables.
- 20.4 Where a firm or a person is found suitable to be contracted for more than one project and the projects are to run concurrently, the Department is entitled to undertake a risk assessment. The Department may request and require additional guarantees and information on finances, team composition and the firms' resources to be deployed to these projects to ensure sufficient capacity is available for handling the multiple projects.
- 20.5 All team members that will be directly involved in the project may, at the sole discretion of the Chief Director: Integrated Spatial Planning, be expected to attend all progress report meetings as scheduled. Due to the urgency of the project, time is of essence to this process and all work shall be submitted when due. Financial penalties will be imposed for any delay or non-compliance with time and quality requirements.
- 20.6 A key member of the team must be fluent in the official language of the area to enable communication with the community and traditional councils.

21 CAPACITY BUILDING AND SKILLS TRANSFER

- 21.1 The DALRRD consider skills development as an integral part of the outsourcing process. The process should ensure that skills development and transfer is achieved with the relevant DALRRD personnel and Municipal Officials. Proposals should indicate how skills development and transfer would be achieved in DALRRD throughout this project.

22 INFORMATION GATHERING

- 22.1 **NB!! The responsibility for collecting information necessary for the successful execution of the project lies entirely with the service provider.**
- 22.2 The successful Service Provider is expected to contact all the relevant GIS, Planning and required officials and units within the local and provincial spheres of government to obtain relevant information that is required for the project. Existing information on LUSs/SDFs which are available within the Spatial Planning and Land Use Management office will be made available to the successful service provider. Proof of requests and engagement to be provided, e.g., attendance register , emails / correspondence.
- 22.3 The report must include the source of information used in the various sections of the report with the date of this information being compiled to ensure credible information is used.
- 22.4 In the light of the event that the service provider needs a letter to confirm the motive for requesting information from the different spheres of government or parastatals, the Department will provide the requested letter.

23 TERMS AND CONDITIONS OF THE QUOTATION

23.1 General

- 23.1.1 The awarding of the quotation will be subject to the Service Provider's express acceptance of the DALRRD Supply Chain Management general contract conditions.
- 23.1.2 The successful service provider will be expected to enter into a service level agreement with the Department in respect of the deliverables of the project and will be signed upon appointment.

23.2 Service providers may not be appointed for more than 2 projects from SPLUM KZN, DALRRD at any moment in time to ensure availability of capacity to undertake the volume of work.

- 23.2.1 Service Providers will be informed about the outcome of the quotation in writing after the quotation has been finalised / adjudicated.
- 23.2.2 No material or information derived from the provision of the services under the contract may be used for any other purposes except for those of the DALRRD, except where duly authorised to do so in writing by the DALRRD.
- 23.2.3 The successful Service Provider agrees to keep all records and information of or related to the project confidential and not discloses such records or information to any third party without the prior written consent of DALRRD.
- 23.2.4 The short-listed service providers may be required to do a presentation in person to the department; at their own cost should it be deemed necessary to do so.

23.3 The service provider should commence with the project immediately after receiving the letter of appointment and the service level agreement signed.

23.4 Any deviation from the project plan should be put in writing and approved by the Project Steering Committee and the department prior to any deviation taking place.

23.5 The overall project shall be completed within the time period as stipulated in this document or as otherwise agreed to in writing by the Department.

23.6 When DALRRD accepts the final product, the appointed service provider will be liable to correct errors and fill gaps that may be discovered in the data/project, at no charge to DALRRD. This condition will apply for a period of two months from the day the project was completed and submitted to DALRRD.

23.7 Format of Proposal

- 23.7.1 All proposals are to respond to requirements as per the Terms of Reference.
- 23.7.2 All proposals should be clearly indexed and easy to read.
- 23.7.3 The submission must:
- 23.7.3.1 Be presented well and of a high quality
 - 23.7.3.2 Depicts a methodical approach
 - 23.7.3.3 Show a clear understanding of project purpose
 - 23.7.3.4 Properly outline of expected outputs;
 - 23.7.3.5 Contain indicators and means of verifying progress of the project.
 - 23.7.3.6 Demonstrate the team's ability to read interprets and understand a variety of spatial information and analysis.

- 23.7.3.7 Demonstrate an understanding of relevant rural development policy and legislation.

24 VALIDITY OF THE QUOTATION

- 24.1 The quotation must be valid for a period of 60 days.

25 REPORTING AND ACCOUNTABILITY

- 25.1 During the execution of the project, the service provider must submit monthly progress reports and attend meetings at intervals as determined within the Inception Report and agreed upon by the Project Team or Steering Committee.
- 25.2 The monthly progress reports will be submitted to DALRRD as well as the Municipality in electronic format, no later than noon on the 2nd day of each month reporting on the previous month.
- 25.3 The project will be signed off by the Director: Spatial Planning & Land Use Management (KZN) when:
- 25.3.1 All the end products (refer to list) have been delivered (all deliverables per phase to be provided per phase to be approved by the Project Steering Committee).
 - 25.3.2 The Director: Spatial Planning & Land Use Management (KZN) is satisfied that all requirements have been met.

26 OUT CLAUSE

- 26.1 The Department of Agriculture Land Reform and Rural Development (DALRRD) reserves the right not to appoint a service provider if suitable candidates are not found, at the complete discretion of the Department.
- 26.2 The Department of Agriculture Land Reform and Rural Development (DALRRD) reserves the right to terminate the contract in the event that there is clear evidence of non-performance, at the complete discretion of the Department.

27 OWNERSHIP OF INFORMATION

- 27.1 The Department of Agriculture Land Reform and Rural Development (DALRRD) will assume ownership of all data and information, in both in electronic and hard copy format, obtained, captured and/or created to generate the outputs of this project.
- 27.2 DALRRD will retain copyright of the final document, annexures, derivatives, value-added data and datasets and all associated intellectual rights of the project outputs. All materials are and remain the property of the Department at all times and no document may be reproduced, copied, or distributed without prior written consent of the Department.

- 27.3 The Municipality will have the right to use the material without DALRRD approval.
- 27.4 This document together with all agreements to be or reached during the course of the project become part of the contract.

28 CONTENT OF THE PROJECT PROPOSAL

- 28.1 A clear and concise project proposal covering the aspect listed below is required;
- 28.1.1 An executive summary.
 - 28.1.2 A project plan.
 - 28.1.3 The proposed methodology should indicate a detailed list of data to be gathered and how it will be processed. The methodology should also indicate the project milestones that will be used to measure the project progress.
 - 28.1.4 The approach should be cost saving yet achieve the highest value for money.
 - 28.1.5 The names and CV's containing detailed information on relevant experiences of all the persons who will be directly contributing to the project, and their roles thereof.
 - 28.1.6 Evidential and documentary proof of professional qualifications, registration and affiliation. For instance, if a team member claims to be a Town Planner, a copy of the registration with the South African Council for Planners (SACPLAN) is required.
 - 28.1.7 Any shortcomings in the study specifications, how this ought to be addressed and the cost implications thereof.
 - 28.1.8 All-inclusive costing model.
 - 28.1.9 The following technical information must be submitted with the quotation proposal:
 - 28.1.9.1 Years of experience of each resource;
 - 28.1.9.2 Relevant professional experience;
 - 28.1.9.3 Organisational, managerial and technical ability;
 - 28.1.9.4 Key Personnel and Resources;
 - 28.1.9.5 Technical backup;
 - 28.1.9.6 Full CVs of all members of the Team;
 - 28.1.9.7 Relevant Equipment and Software competence and capability;
 - 28.1.9.8 Client References; and,
 - 28.1.9.9 Associations and Professional Affiliations.

29 EVALUATION PROCEDURE

29.1 First Stage-Evaluation of Functionality

- 29.1.1 The proposal documents will be evaluated in two phases, based on the 80/20 principle in terms of the Preferential Procurement Policy Framework Act (PPPFA) / Preferential Procurement Regulations 22 (PPR22).

29.1.2 In the first phase, the quotation documents will be evaluated individually on separate score sheets for functionality, by a representative evaluation panel according to the evaluation criteria indicated in these Terms of Reference, being the evaluation criteria indicated below. All service providers who score less than seventy (70) out of the one hundred (100) points (70%) for functionality will not be considered further.

29.1.3 During phase 2, bidders will be further evaluated based on 80 points for price and 20 points for Specific Goals Status Level of Contribution (as indicated below).

29.2 Second Stage - Evaluation in terms of 80/20 Preference Points System

29.2.1 Quotations that achieve the minimum qualifying score for functionality of 70 points out of 100 points will be evaluated further in accordance with the 80/20 preference points system.

29.2.2 Calculation of points for price:

- a. The PPPFA prescribes that the lowest acceptable quotation will score eighty (80) points for price. Bidders that quoted higher prices will score lower points for price on a pro-rata basis.

29.2.3 Calculating of points for specific goals - Points will be awarded to a bidder for a specific goal in accordance with the table below:

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system)	Percentage ownership equity (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
1. Who had no franchise in national elections before the 1983 and 1993 constitution	10		
2. Who is female	5		
3. Who has a disability	2		
4. Specific goal: Who is youth	3		

29.2.4 Bidders must submit proof for each point claimed as per guide below:

- a. Who had no franchise in national elections before the 1983 and 1993 Constitution – **attach certified copy of identity document (ID) and company registration document / CSD report to show / substantiate percentage ownership equity.**
- b. Who is female – **attach certified copy of identity document (ID) and company registration document / CSD report to show / substantiate percentage ownership equity.**
- c. Who has a disability – **attach doctors letter confirming a disability.**
- d. Who is youth - **attach certified copy of identity document (ID) and company registration document / CSD report to show / substantiate percentage ownership equity.**

30 EVALUATION CRITERIA

30.1 The following criteria will be used as the criteria for appointment of the service provider based on functionality:

CRITERIA	GUIDELINES FOR CRITERIA APPLICATION	Weight	Score
1. PROJECT RESOURCES Experience and qualification of key personnel (submission of CV and certified copies of qualifications and professional registration certificates is mandatory for each professional person on the team)	<u>Team Leader:</u> –The Team Leader must be a registered Professional Town & Regional planner with the South African Council for Planners (SACPLAN) in terms of the Planning Profession Act, 2002, and be in good standing with SACPLAN. –The Team Leader/Planner must have knowledge and experience of Spatial Planning; Statutory Planning; Spatial Development Frameworks, Land Use Schemes, and Laws related to the previous mentioned. –Preferable 10 years' experience or more –Proven Project Management Experience <ul style="list-style-type: none"> • 0 Points = 1-3 Years' Experience • 1 Points = 4-6 Years' Experience • 2 Points = 7-8 Years' Experience • 3 Points = 9 Years' Experience • 4 Points = 10 Years' Experience • 5 Points = 11 Years' or more Experience 	10	
	<u>GIS:</u> –Key member of the team must have proven experience in Spatial Information Systems/Design (e.g., GIS); and accredited with the South African Geomatics Council (SAGC - Previously PLATO). <ul style="list-style-type: none"> • 0 Points = 0-1'Years' Experience • 1 Points = 2-4 Years' Experience • 2 Points = 5-6 Years' Experience • 3 Points = 7-8 Years' Experience • 4 Points = 9-10 Years' Experience • 5 Points = 11 Years' or more Experience 	10	
	<u>Engineer:</u> –Key member of the team must be an engineer registered with the Engineering Council of South Africa (ECSA) <ul style="list-style-type: none"> • 0 Points = 0-1'Years' Experience • 1 Points = 2-4 Years' Experience 	5	

	<ul style="list-style-type: none"> • 2 Points = 5-6 Years' Experience • 3 Points = 7-8 Years' Experience • 4 Points = 9-10 Years' Experience • 5 Points = 11 Years' or more Experience <p><u>Composition of team</u></p> <p>Team with necessary resources & capacity to address every aspect of the project, in the development of an SDF. The disciplines and skill sets include inter alia an Environmentalist, Economist, Rural Development Specialist, Agriculturalist, Agronomist.</p> <ul style="list-style-type: none"> • 1 Point = Poorly Resourced Team • 3 Points = Adequately Resourced Team • 5 Points = Well Resourced Team 	5	
2. BENEFICIAL EXPERIENCE	<p><u>Communications Plan</u></p> <p>–A Comprehensive Communication plan with Traditional Councils (if applicable) and Ward Councillors, Ward Committees and Residents.</p> <p>–Key member to be fluent (Oral & Written) in the official language of the area and must be able to prepare presentations, and present to the relevant stakeholders and communities as required for the duration of the project.</p> <ul style="list-style-type: none"> • 0 Points = No Communication Plan • 1 Point = Poor Communication Plan • 2 Point = Poor Communication Plan & have IsiZulu speaking person on team. • 3 Point = Adequate Communications Plan & have IsiZulu speaking person on team. • 5 Point = Detailed Communications Plan & have IsiZulu speaking person on team. <p><u>The following experience is beneficial to the team and needs to be illustrated via submission of project examples.</u></p> <p>–Strategic Planning including scenarios and futures planning;</p> <p>–Economist to undertake economic related matters within the LM.</p> <p>–Engineer to undertake analysis of infrastructure related issues.</p> <p>–Local Economic Development specialist.</p> <p>–Thorough understanding of political environment and Intergovernmental Relations Framework;</p>	10	5

	<ul style="list-style-type: none"> -Research, analytical, report writing, presentation and communication skills; (the way the tender document is compiled/written and other reports included in the tender documents will be taken into consideration); and -Proven experience in rural development planning. -Advanced understanding of three-dimensional form and space in cities and settlements, and the relationship of this form to land, context, society and history (Similar Urban Design / Local Area Plans / Precinct Plans to inform this) -Proven experience in the development of Land Use Scheme 	
<p>3. TEAM EXPERIENCE:</p> <p>Require a well-rounded team which covers all aspects of the project, and with proven experience of projects on similar scale.</p>	<ul style="list-style-type: none"> • 0 = Do not comply with requirements • 2= Partially Comply • 5 = Comply with requirements <p><u>Proof of similar work (Spatial Development Frameworks, Spatial Plans) done by Team (Examples AND Reference Letters, with traceable contacts for work in KZN Required):</u></p> <ul style="list-style-type: none"> • 0 Points = 1st Project • 1 Points = 2 - 3 Projects • 2 Points = 3 - 5 Projects • 3 Points = 5 - 8 Projects • 4 Points = 8 - 10 Projects • 5 Points = 11 or more projects <p>-Proven experience & knowledge of National Plans (NDP, NSDF) and KZN planning Policies (KZN PGDS / KZN DGDP; KZN PSDF / KZN PSEDS) (Experience in working with SDFs, LUSs & Development Applications will serve as proof).</p> <ul style="list-style-type: none"> • 0 = Not Illustrated • 2 = Partially Illustrated • 5 = Well illustrated 	<p>10</p> <p>10</p>
<p>4. METHODOLOGY AND PROJECT MANAGEMENT</p>	<p>-A well-structured methodology and implementation plan (linked to dates, timeframes & outputs) which spells out the detailed aspects of the way the project is to be undertaken and reflected on a Gantt Chart. And a well compiled submission.</p> <ul style="list-style-type: none"> • 0 = No Methodology 	<p>20</p>

5. SKILLS TRANSFER	<ul style="list-style-type: none"> • 1 = Poor Methodology • 3 = Adequate Methodology • 5 = Excellent (detailed submission) <p>–Risk Management: Identifying possible problems that might hinder project delivery and indicate how they will overcome such problems.</p>	10
	<ul style="list-style-type: none"> • 0 = Not Illustrated • 2 = Partially Illustrated • 5 = Well illustrated <p>–Level of commitment to skills transfer & process to facilitate skills transfer depicted:</p> <ul style="list-style-type: none"> • 0 = Not Addressed • 2= Adequate • 5 = Very Good 	5
TOTAL POINTS ON FUNCTIONALITY		100

30.2 The quotations that fail to achieve a minimum of 70 points for functionality will be disqualified.

31 CONTACT PERSONS

Technical Enquiries:

All technical enquiries related to this quotation call must be forwarded to:

Directorate: Spatial Planning & Land Use Management
Department of Agriculture Land Reform and Rural Development
Private Bag X9000
Pietermaritzburg
3200

Attention: **Mr Stephan Viljoen**
Tel: **071 605 3674**
Email: **Stephanus.viljoen@dalrrd.gov.za**

Supply Chain Management:

All supply chain management enquiries related to this quotation call must be forwarded to:

Department of Agriculture Land Reform and Rural Development – KZN Shared Service Centre
1st Floor,
270 Jabu Ndlovu (Loop) Street
Pietermaritzburg,
KwaZulu-Natal
3201

Attention: **Mr Bongani Magudulela**
Tel: **033-264 9500**
Email: **bongani.magudulela@dalrrd.gov.za**

32 RECOMMENDATION

It is recommended that this Terms of Reference be presented to the Bid Specifications Committee for consideration.



Mr RJ Hoole (Director)
Spatial Planning and Land Use Management (Client Department)
Date: 2023 / 06 / 08

33 APPROVAL

Recommendation 1:

It is recommended that this Terms of Reference be approved.

Recommendation 1: Approved / ~~Not Approved~~

Comment:



Mr SP Viljoen (Chair: Bid Specification Committee)
Chief Town & Regional Planner
Spatial Planning and Land Use Management
Date: 2023/06/19

Recommendation 1: Endorsed / ~~Not Endorsed~~

Comment:



Ms P Muller
Deputy Director: Supply Chain Management
Date: 2023/06/22



SUPPLIER MAINTENANCE



BAS

LOGIS

System User Only	
Captured By:	-----
Captured Date:	-----
Authorised By:	-----
Date Authorised:	-----
Safety Web Verification	
<input type="checkbox"/> YES	<input type="checkbox"/> NO

Office

The Director General: Department of Agriculture, Land Reform and Rural Development

I/We hereby request and authorise you to pay any amounts, which may accrue to me/us to the credit of my/our account with the mentioned bank.

I/we understand that the credit transfers hereby authorised will be processed by computer through a system known as "ACB - Electronic Fund Transfer Service", and I/we understand that not additional advice of payment will be provided by my/our bank, but that the details of each payment will be printed on my/our bank statement or any accompanying voucher. (This does not apply where it is not customary for banks to furnish bank statements).

I/we understand that the Department will supply a payment advice in the normal way, and that it will indicate the date on which the funds will be made available on my/our account.

This authority may be cancelled by me/us by giving thirty days' notice by prepaid registered post. Please ensure information is valid as per required bank screens.

I/We understand that bank details provided should be exactly as per the records held by the bank.

I/We understand that the Department will not assume responsibly for any delayed payments, as a result of incorrect information supplied.

Company / Personal Details	
Registered Name	
Trading Name	
Tax number	
Vat Number	
Title	
Initials	
First Name	
Surname	

Address Detail	
Postal Address Line 1	
Postal Address Line 2	
Physical Address Line 1	
Physical Address Line 2	
Postal Code	

New Detail	
<input type="checkbox"/> New Supplier Information	<input type="checkbox"/> Update Supplier Information
Supplier Type	<input type="checkbox"/> Individual <input type="checkbox"/> Department Department Number <input type="text"/> <input type="checkbox"/> Company <input type="checkbox"/> Trust <input type="checkbox"/> CC <input type="checkbox"/> Other Other Specify <input type="text"/> <input type="checkbox"/> Partnership

Supplier Account Details

(This field is compulsory and should be completed by a bank official from the relevant bank).

Account Name			
Account Number			
Branch Name			
Branch Number			
Account Type	<input type="checkbox"/> Cheque Account <input type="checkbox"/> Savings Account <input type="checkbox"/> Transmission Account <input type="checkbox"/> Bond Account <input type="checkbox"/> Other (Please Specify)	<input style="width: 100%; height: 20px;" type="text"/>	
ID Number			
Passport Number			
Company Registration Number			
*CC Registration			
* Please include CC/CK where applicable			
Practise Number	Bank stamp		
When the bank stamps this entity maintenance form or provides an electronic bank stamp/letter attached to the entity maintenance form they confirm that all the information completed by the entity is correct.	It is hereby confirmed that this details have been verified against the following screens ABSA-CIF screen FNB-Hogans system on the CIS4 STD Bank-Look-up-screen Nedbank - Banking Platform under the Client Details Tab		

Contact Details

	<i>Area Code</i>	<i>Telephone Number</i>	<i>Extension</i>
Business			
Home			
Fax			
Cell			
	<i>Cell Code</i>	<i>Cell Number</i>	
E-mail Address			

Contact Person	Supplier details	Departmental sender details	
Signature			Address of Agriculture, Land Reform and Rural Development Office where form is submitted from:
Print Name			
Rank			
Date (dd/mm/yyyy)			

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

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