



Invitation to Tender

South African Local Government Association (SALGA) requests interested bidders to bid for the following tender.

Bid documents may be emailed on request from SCM on email: scm@salga.org.za

Bid documents must be deposited in the tender box located in the reception area of SALGA's Office as indicated in the bid schedule below before the closing date and time. Late or incomplete submissions will not be accepted.

Tender No	Description	Closing date and Submission Details
SALGA/45/2016	The South African Local Government Association (SALGA) Hereby Requests Proposals for the Provision of Office Accommodation for its Western Cape Office in Cape Town.	4 May 2017 at 11:00 SALGA National Office Block B Menlyn Corporate Park, C/o Garsfontein and Corobay Avenue Waterkloof Glen, 0181
Enquiries		Tel: 012 369-8000 or email : scm@salga.org.za
Compulsory Bid Briefing Session		None

BID: SALGA/45/2016

THE SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION (SALGA) HEREBY REQUESTS PROPOSALS FOR THE PROVISION OF OFFICE ACCOMODATION FOR ITS WESTERN CAPE OFFICE IN CAPET TOWN, SOUTH AFRICA

CLOSING DATE: 04 MAY 2017

TENDERS CAN BE DEPOSITED IN THE TENDER BOX AT THE RECEPTION AT:

**SALGA NATIONAL OFFICE
BLOCK B
MENLYN CORPORATE PARK
C/O GARSFONTEIN AND COROBAY AVENUE
WATERKLOOF GLEN
012-369 8000**

1. INTRODUCTION

The South African Local Government Association (SALGA) is an autonomous association of municipalities with its mandate derived from the Constitution of the Republic of South Africa. This mandate defines SALGA as the voice and sole representative of local government. SALGA interfaces with parliament, the National Council of Provinces (NCOP), cabinet as well as provincial legislatures.

The association is a unitary body with a membership of 257 municipalities, with its national office based in Pretoria and branch offices in all nine provinces. Our strength at SALGA lies in the intellectual capital we have acquired through our people over the years and our values to be Responsive, Innovative, Dynamic and Excellent underpin all that we do. Our mission to be consultative, informed, mandated, credible and accountable ensures that we remain relevant to our members and provide value as we continuously strive to be an association that is at the cutting edge of quality and sustainable services.

Our Role

In line with its mandate SALGA has set out its role to:

- **Represent, promote and protect the interests of local government;**
- **Transform local government to enable it to fulfil its developmental role;**
- **Raise the profile of local government;**
- **Ensure full participation of women in local government;**
- **Perform its role as an employer body;**
- **Develop capacity within municipalities;**

Our role can thus be summarised into four key roles:

Advice and support: policy analysis, research and monitoring, knowledge exchange and support to members.

Representation: stakeholder engagement; lobbying on behalf of local government in relation to national policies and legislation.

Act as an employer body: collective bargaining on behalf of our members; capacity building and municipal human resources.

Strategic profiling: building the profile and image of local government locally and internationally

Our role as an organisation is effectively played out through various programmes and working groups. These working groups are responsible for facilitating:

- Cooperative governance between the spheres of government as directed by the National Executive Committee or the Provincial Executive Committees;
- Consultation, coordination and participative decision-making between SALGA and its members.

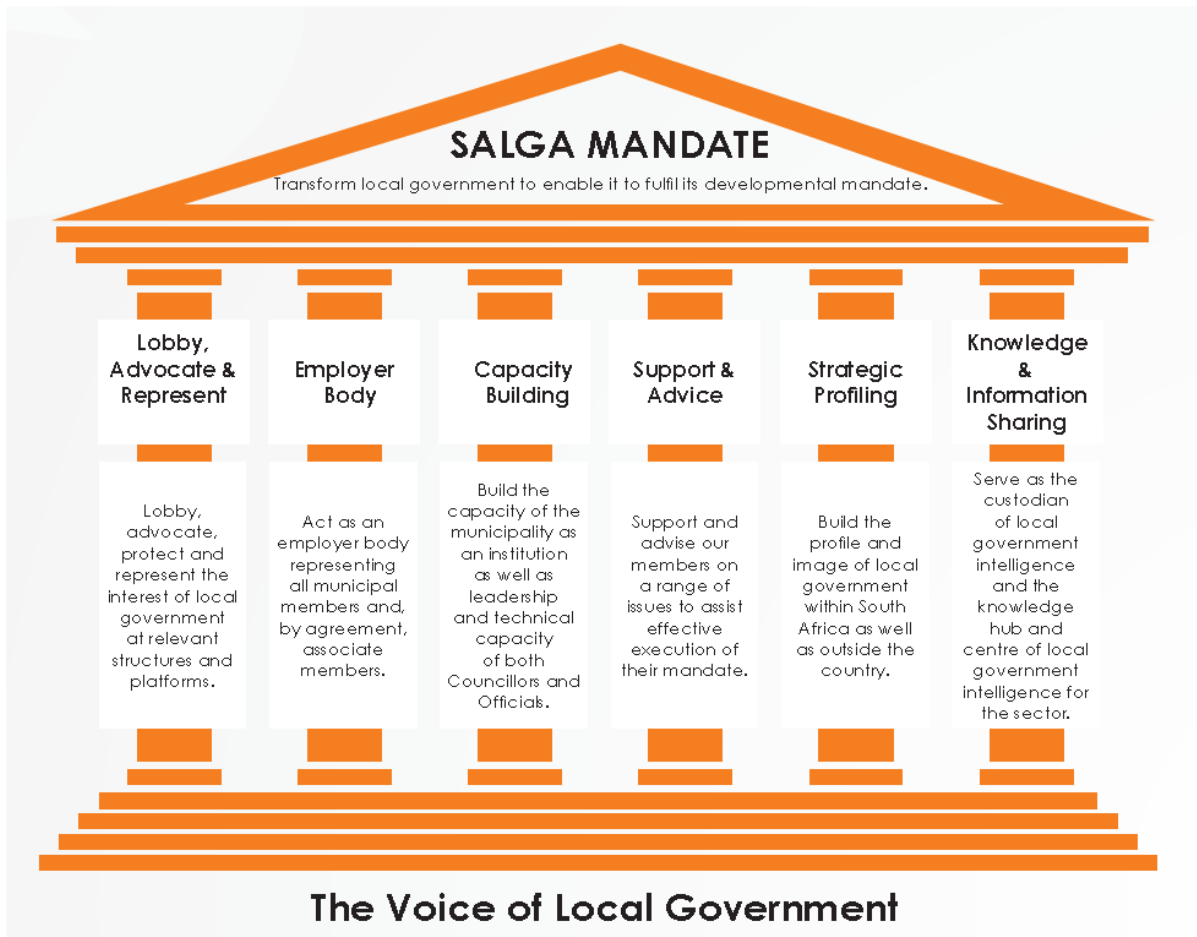
SALGA MANDATE

Developmental Local Government is an essential component of the machinery of government. In accordance with its constitutional mandate, SALGA is obliged to transform the local government sector to one that has the required capacity to make a meaningful contribution to poverty alleviation, economic development and all socio-economic opportunities that the state has geared itself to provide for its people. SALGA also serves as the representative voice of all 257 municipalities in the country. For the past 20 years, since its establishment, SALGA has endeavored to bring focus to its mandate of supporting local government transformation in a complex environment, characterized by a highly diverse and diffuse membership-base of municipalities. In terms

of its amended Constitution, SALGA is a unitary body that consists of a national association and nine provincial offices. Its mandate rests on six primary pillars:

- (1) **Representation, Advocacy and Lobbying** refers to representing the interests of members in legislatures and other policy making and oversight structures. It also refers to engaging with various stakeholders, public debates etc. in the interest of Local Government.
- (2) **Employer Body** refers to being an effective employer representative for members. Employer representation is carried out through collective bargaining (in terms of the Labour Relations Act) in various structures including but not limited to those established in the South African Local Government Bargaining Council.
- (3) **Capacity Building** refers to facilitating capacity building initiatives through among others; representing member interests in the Local Government Sector Education Authority (LGSETA). SALGA strives to facilitate a coherent, well-co-ordinated capacity building programme for municipal councillors and officials.
- (4) **Support and Advice** refers to the provision of tools and services that enable municipalities to understand and interpret trends, policies and legislation affecting Local Government and to implement the said policies and plans
- (5) **Strategic Profiling** of Local Government refers to enhancing the profile and image of local government as an important and credible agent for the delivery of services. Profiling focuses within South Africa, the African continent and the rest of the world.
- (6) **Knowledge and Information Sharing** refers to building and sharing a comprehensive hub of Local Government knowledge and intelligence that will enable informed delivery of other SALGA mandates. The knowledge hub is also a useful reference point for all who seek Local Government information.

Diagrammatically the mandate is depicted as follows:



2. PURPOSE

The purpose of this request for proposals is to obtain suitable office accommodation, preferably in the Cape Town CBD are, for the SALGA Western Cape office in the Western Cape, South Africa. SALGA is looking for the following options:

- Outright Purchase;
- Finance lease;
- Any other methods of financing can also be proposed.

Furthermore partnership agreements of any kind shall not be considered with respect to any proposed solution.

Suitable service providers may submit bid offers on one or more of the listed or unlisted solutions.

3. BACKGROUND

SALGA recognizes that if it is to realize its vision, it must nurture and constantly develop its winning formulae—a combination of service excellence, quality, participative management and empowerment. The organization also realizes that this will only be achieved if it continues to value and care for its member municipalities, and takes the management of employee issues and risks in the organization seriously. It is upon this background that a need for new offices was identified and that is the reason why the organization is embarking on this procurement process.

4. SCOPE OF WORK

SALGA requires a minimum of 1900 sq. m office space, which must have the capacity of being extended to +- 7000 sq. m, should SALGA so request. Ideally SALGA would want to have the building suitably fitted out to SALGA's requirements. As it is not part of SALGA's core functions, SALGA would not be involved in appointing a Professional Team and Contractors to fit out the office accommodation and expects the Landlord to do this. The Landlord must specify the tenant installation allowance.

It is important for SALGA to be informed of the time frame (considering SALGA's existing contractual obligations) when a suitable building will be ready for occupation. The location of the SALGA Office must be easily accessible from existing freeways/main roads, preferably within walking distance from public transport services, clearly visible from traffic routes and entrance from street level is required. Parking for visitors must be available on the proposed premises.

A security infrastructure for the offices will be required and it is imperative that cognizance is given to any risk/s attached to the prospective buildings to SALGA politicians, staff and visitors. The building must be disabled friendly.

4.1 BUILDING AND OFFICE SPACE REQUIREMENTS

4.1.1 Type of Premises: -The premises should be suitable for a typical administrative office Environment.

4.1.2 Property/Building: - The property offered should be able to accommodate the following as net usable areas:

- **General**

Requirements are based on the premise that exclusive offices for top management are required while an open plan office layout is required for back office facilities.

- **Office Space Requirements**

To allow for the particular requirements as indicated below, the minimum total floor space required is approximately 1 900 sq. m (including common areas), which must have the capacity of being extended to 7000 sq. m should SALGA so request.

Apart from the normal office space requirements for staff as indicated above, the following is a summary of areas requiring particular attention and planning:

Provincial Executive Officer's Office Area

- Chairperson's Office
- PEO's Office
- PEO's personal lavatory
- Reception area
- PA's Office
- Private boardroom for 10 people
- Kitchenette

Boardrooms

- One boardroom to accommodate 40 people with catering facilities,
- Training room to accommodate 90 people with catering facilities. (Boardrooms to have the option of being converted into on large boardroom that could accommodate 130 people as one)

ICT Server Room

- Server room with suitable fire resistant storage space and dedicated air conditioning, as well as a 4 sq. m with raised floor to prevent potential water damage in the event of any water leakage in the building.

Administration Storage

- Storeroom for stationary
- Storeroom for groceries and catering equipment
- Storeroom for cleaning material
- Storeroom for cleaning equipment
- Storeroom for unused furniture or any other unused movable property
- Operations centre to accommodate three large volume copy machines
- Registry to accommodate 2 staff members, a file storage area consisting of a counter and Opti-plan type filing cabinets

Further Requirements

- General reception area
- Kitchen
- Lounge area for staff / meeting delegates to have lunch
- Resource Centre / Library
- Rest room for 2 cleaners
- Sick-bay room for ill employees

The above is not to be considered a detailed specification but should merely act as a guideline to assist the planning process.

4.1.3 THE BUILDING

The building shall comply with local authority requirements and applicable legislation. Any program to prepare the building to be compliant should be completed prior to SALGA's occupation keeping the time frames in mind. The building shall be fully disabled friendly e.g. all floors to be occupied by SALGA shall be accessible by wheel chair. Lift buttons to have braille and voice announcing lift movements. Allowance should also be made for access by guide dogs.

4.1.4 THE PARKING

Approximately 140 parking bays will be required to accommodate both SALGA staff and visitors vehicles. These parking bays provided shall be made available to SALGA on a 24-hour basis. Allowance should be made for at least 5 parking bays to accommodate persons with disabilities. All parking is to be provided within a safe and secure environment.

4.1.5 SALGA ACCOMMODATION STANDARDS

The accommodation must provide for the following accommodation standards:
(Preference will be given to buildings with Energy Saving and Renewable Energy Solutions)

- (HVAC) Heating, Ventilation and Air-Conditioning.
- Implementation of Smoking by-laws
- Toilet Facilities.
- Water Supply
- Electrical Supply
- Fire Risk management
- Uninterrupted power supply
- Emergency power supply (generators)
- Vertical Movements
- Carrying capacity of floors
- Acoustics and noise standards
- Security
- Accessibility to the building for staff members, visitors and disabled.
- Accessibility for deliveries
- Accessibility for disabled.
- Parking facilities

SALGA requires compliance certificates / confirmations in this regard.

4.1.6 HEATING, VENTILATION AND AIR CONDITIONING

The ventilation of the building must be in accordance with the Occupational Health and Safety Act, 1993 (Act 85 of 1993).

The building should be fully air-conditioned and the air conditioning system should be sufficiently adequate to provide a summer / winter working environment compliant to industry standards. There should preferably be a maintenance contract in place.

The air conditioning installation / units should have a remaining life expectancy of at least 5 years. A Mechanical Engineer's report will be required.

4.1.7 TOILET FACILITIES

The building shall have fully functional toilet facilities available to SALGA, either new or refurbished. The following norms shall be applied:

Male staff

- One waste container for every 8 persons
- One urinal for every 15 persons
- For every two waste containers, at least one hand-wash basin with hot and cold water including a waterproof vanity slab around the basin
- A mirror of at least 1200 mm in height for the full length of the said vanity slab

Female staff

- One waste container for every 8 persons
- For every two waste containers, at least one hand-wash basin with hot and cold water including a waterproof vanity slab around the basin
- A mirror of at least 1200 mm in height for the full length of the said vanity slab

People with Disabilities

- Toilet facilities for people with disability (Visitors and Staff) have to be provided for according to National Building Regulations, SANS 0400. It must also be noted that SALGA is committed to providing suitable amenities for people with bodily constraints.

4.2 WATER SUPPLY

The municipal water supply should be metered separately.

4.3 ELECTRICAL SUPPLY

The power supply shall be metered separately. The installation is to comply with all relevant regulations and by-laws. It must be taken into account that all operational staff at SALGA are equipped with a computer. There is also a number of IT servers and other sophisticated electronic equipment being operated by SALGA. The quality and capacity / KVA of incoming power supply should thus be able to meet SALGA's requirements.

Note:

- SALGA will not contribute to any upgrading / provisioning of additional power supply to the building / site.
- An Electrical Compliance certificate must be provided to SALGA as *prima facie* proof that all electrical installations in the building are safe and comply with the rules and regulations set out in the South African National Standards 10142-1.

4.3.1 POWER POINTS

Power points to be provided as per SALGA requirements with the following guidelines:

- Each person will be equipped with one single normal power point and one red dedicated power point.

- Normal power points to be provided for multifunction machines.
- The operations room will be suitably equipped for multifunction machines.
- Single-phase 15 Amp socket outlets in passages and operational areas shall be provided for cleaning and maintenance.

4.3.2 UPS & GENERATOR REQUIREMENTS

SALGA will be responsible for the provisioning of UPS and Generator equipment to ensure that an un-interrupted power supply to all computer equipment will be available.

4.3.3 EMERGENCY POWER SUPPLY

The following areas are to be provided with Emergency power supply:

- Reception Desk
- Security Control room and equipment
- Office of the PEO
- Office of the ICT Officer
- The IT Server Room
- Passages
- Switchboard

4.3.4 LIGHTNING PROTECTION

The building shall have sufficient lightning protection. Configuration as required by the National Building Regulations

4.3.5 LIGHTING

All interior lighting shall conform to SABS 0114-1:1996. The lighting design shall take into consideration the type of work that will be performed which includes general office work and computer based work areas.

4.3.6 CONTROL

Each functional area shall have independent control of lights and emergency lights shall comply with the National building regulations.

4.3.7 DATA AND TELEPHONE CABLING

The building should allow for the installation of adequately cabling for the installation of ITC and telephone equipment.

4.4 FIRE PROTECTION & RISK MANAGEMENT

Fire control, safety and risk management shall be in full compliance with the National Building Regulations. SABS 0040 as amended. SALGA will require that a complete Automatic Sprinkler Inspection Bureau (ASIB) report to be submitted along with all other information regarding Fire compliance.

4.5 VERTICAL MOVEMENTS

4.5.1 Stairs

Stairs should allow free and easy flow of staff.

4.5.2 Lifts, hoists & escalators

Taking into account rules TT45 to TT48 as set out in the SA Standard Code of Practice for the Application of the National Building Regulations as issued by the SABS, SALGA requires that if the building offered consists of floors not accessible from ground level by disabled persons, it shall be provided with at least one lift to be utilized as a passenger lift to transport at least eight (8) persons or goods with a minimum payload of 1 000 kg at any given time. The minimum clear entrance to the car shall be of such dimension that it will be accessible for a wheelchair. If the building has a basement or other parking area, the lift shall also serve that area.

The number of lifts required to service functional areas must be sufficient.

All lift buttons to have braille and lifts to have voice announcing lift movements.

It is essential that all lifts are maintained in accordance with the applicable legislation and a certificate of confirmation will be required.

Note: If the building is not fitted with lifts, hoists or escalators, it must at least have the capacity and/or capability of being fitted with such lifts, hoists or escalators at SALGA's request.

4.6 CARRYING CAPACITY OF FLOORS

Floors to allow a carrying capacity for a normal office environment. Allowance should be made for higher point loads where safes are to be installed.

4.7 ACOUSTIC AND NOISE

All outside noises shall be reduced to an acceptable level that allows people to perform their functions without undue disturbance.

4.8 SECURITY

The proposed building should preferably have a fully functional security and access control system. The system should allow for the safe entering and exiting of SALGA staff, politicians and visitors, a safe working environment and the protection of vehicles and assets.

The proposed land and building/s shall be in a safe, secure and tranquil environment that does not present a security risk to SALGA staff members even if they work after hours. SALGA may decide to either appoint the successful bidder or its own suppliers to provide security cameras, access control, IT hardware requirements and telephone systems.

4.9 ACCESSIBILITY TO THE BUILDING BY DISABLED

- The building shall accommodate disabled people and comply with the relevant acts, regulations and municipal by-laws.
- Emergency Exits and Evacuation Procedures also to accommodate disabled people.

5. FINANCIAL

5.1 OPERATIONAL COSTS

SALGA requires details of all the maintenance contracts and costs pertaining to the current operational expenditure for the building for which SALGA may be liable. This must include but is not limited to: **(Full details of existing contracts with the duration and validity shall be provided as part of the proposal)**

- Windows
- Roofs
- HVAC including cleaning the diffusers inside
- UPS and emergency power maintenance
- Lightning
- Plumbing
- Common area electrical reticulation
- Grounds and gardens
- Storm water
- Washing the external windows & facades.
- Lifts maintenance
- Cleaning services
- Municipal rates
- Insurance

(In line with the Legislative Framework, SALGA is not obliged to continue, renew or extend any existing contracts of the bidder, unless it deems otherwise.)

5.2 OPTION TO PURCHASE

SALGA is looking at the following options:

- Outright Purchase;
- Finance lease
- Any other methods of financing can also be proposed.

6. MINIMUM REQUIREMENTS

Failure to submit any of the below requirements may lead to disqualification of the bid/proposal.

6.1 The proposed land and buildings must be in the Cape Town, CBD area.

6.2 The bidders shall submit at least five contactable references with the company names they offered similar size or larger accommodation, the contact details and a contact person.

- 6.3 The bidders shall submit a complete company profile and CV's of the senior project leaders coupled with previous similar projects.
- 6.4 The bidders shall submit proof of ownership in a form of a certified copy of the Title Deed of the property that indicates that the bidder is the owner of the building and has authority to offer the building or site for SALGA usage. Bids from agents will not be accepted.
- 6.5 The bidders shall submit at least three years audited financial statements of their company that will deliver the accommodation solution.
- 6.6 Bidders shall submit the photographic portfolio of the building with high-level space planning indicating that the accommodation needs of SALGA can be accommodated.
- 6.7 It will be required that each proposal of the bid be submitted with a project plan of how the task will be achieved- this will include time frames, work breakdown structure and risks.
- 6.8 Appropriate Construction Industry Development Board (CIDB) commensurate with the level of work.
- 6.9 Bidder should provide proof that all Rates & Taxes are in order. (SALGA reserves the right to appoint its own Conveyancer).
- 6.10 All Compliance Certificates (Electrical & Plumbing; Fire; Structural) shall be submitted as part of the proposal.
- 6.11 All SCM documents, including an approved zoning rights certificate shall be submitted as part of the proposal

Special Conditions

- 6.9 SALGA may at its own discretion vary this instruction to include more scope / work or to exclude work/service areas. In the case of the latter, the bidder shall not be entitled to claim for any work not required and may engage SALGA on the pricing of the additional work/ service proposed.
- 6.10 All copyright and intellectual property rights that may result as a consequence of the work to be performed shall reside with SALGA and the service provider shall be required to sign an agreement of confidentiality.
- 6.11 SALGA may dictate the framework in which documents (policies, plans, report etc.) shall be submitted; however the service provider should be able to submit a proposal on the lay-out of his/her choice for consideration by SALGA.
- 6.12 SALGAs (general conditions of bid, contract and order) shall be applicable to this bid. The service provider shall be required to conclude and sign a Service Level Agreement (SLA) after the appointment.
- 6.13 SALGA reserves the right not to award the bid to any bidder at its own discretion.

7. LEGISLATIVE REQUIREMENTS

As SALGA is a Schedule 3A Public Entity, SALGA needs to operate within all the legislative requirements as contained in the Public Finance Management Act (PFMA), Treasury Regulations, Preferential Procurement Policy Framework Act (PPPFA) and all other applicable legislation.

8. INFORMATION REQUIRED

8.1 Property Information

- Property street address
- Owner's name, address, city, postal code, telephone and fax numbers
- Telephone and fax numbers
- Details of partners/contractors/sub-contractors to this offer

8.2 Layout Drawings

The bidder shall provide a detailed layout drawing that includes all areas required for the building to be functional including the usable space listed. Usable space in terms of South African Property Owners Association (SAPOA).

Plant (generators, aircons, etc.) rooms to be positioned in such a way that routine maintenance does not disturb operations or produce unacceptable noises during business hours. The layout drawing shall also indicate major vertical penetrations, column spacing and sizes, and any other building elements that may impact on the configuration of office layouts.

8.3 Floor Areas

The bidder shall provide the floor area as defined by the South African Property Owners Association method for measuring floor areas in commercial and industrial buildings.

8.4 Property Area

The bidder shall provide the stand numbers with sizes.

9. STANDARD SPECIFICATIONS

The proposed land and building/s shall comply with all the applicable laws and bylaws and at least the following specifications, laws or local authority requirements:

- The building must comply with the Occupational Health and Safety Act, 1993 (Act 85 of 1993), as amended.
- The latest issue of SABS 0142: "Code of Practice for the Wiring of Premises" Code of practice
- Interior Lighting SABS 0114:1996 - Part I
- The National Building Regulations and Building Standards Acts 1977 (Act 103 of 1977) as amended (SANS 0040)
- The Municipal by-laws and any special requirements of the local supply authority
- The local fire regulations
- The Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000.
- The building must comply with strategies that underpin the government green building strategies

Certificates proving compliance with the aforementioned regulations shall be provided prior to occupation.

10. SUBMISSION

Bid documents must be submitted on or before 11h00 am on the specified closing date at SALGA National Offices located at First Floor, Block B Menlyn Corporate Park, 175 Corobay Avenue, Corner Garsfontein Road, Waterkloof Glen X11, Pretoria, 0181.

Please note that late bids will not be accepted.

11. ADDITIONAL INFORMATION

Any additional information required can be obtained through a written request to SCM at scm@salga.org.za.

12. EVALUATION METHODOLOGY (matrix)

12.1 COST/PRICING

Prospective bidders must provide an offer regarding the office accommodation to be procured via either outright purchase, or a Finance Lease model.

The purchase offer must indicate the following details:

- Building,
- Leased Premises,
- Office Space square meters,
- Number of Parking Bays,
- Beneficial Occupation Date,
- Commencement Date,
- Escalation Rate,
- Adjustment Date,

The costs should be quoted according to the South African currency (i.e. Rand).

13. CONDITIONS OF BID (FAILURE TO MEET ANY OF THE REQUIREMENTS BELOW MAY RENDER YOUR BID OFFER NON-RESPONSIVE).

- 13.1 The requirement for content of the project proposal section below outlines the information that must be included in bid offers. **Failure to provide all or part of the information may result in your bid being excluded from the evaluation process.**
- 13.2 A contract will be signed with the appointed Service Provider.
- 13.3 The Service Provider will be required to sign confidentiality and indemnity agreements with SALGA.
- 13.4 SALGA may at its own discretion vary an instruction to include more work.
- 13.5 Failure to comply with any condition of this request for a proposal will invalidate respective tender proposal

- 13.6 In the event that any conflict of interest is discovered during the assignment, SALGA reserves the right to summarily cancel the agreement and demand that all the information, documents and property of SALGA be returned forthwith.
- 13.7 SALGA reserves the right to request new or additional information regarding each bidder and any individual or other persons associated with its project proposal.
- 13.8 Bidders shall not make available or disclose details pertaining to their project proposal with anyone not specifically involved, unless authorized to do so by SALGA.
- 13.9 Bidders shall not issue any press release, social media or other public announcement pertaining to the details of their project without the prior written approval of SALGA.
- 13.10 Bidders are required to declare any conflict of interest they may have in the transaction for which the bid is submitted or any potential conflict of interest. SALGA reserves the right not to consider further any bid where such a conflict of interest exists or where such potential conflict of interest may arise.
- 13.11 The bid offers and proposals should be valid and open for acceptance by SALGA for a period of 120 days from the date of submission.
- 13.12 Bidders are advised that submission of a project proposal gives rise to no contractual obligations on the part of SALGA.
- 13.13 Disputes that may arise between SALGA and a bidder must be settled by means of mutual consultation, mediation (with or without legal representation) or, when unsuccessful, in a South African court of law.
- 13.14 In addition to adherence to the specific terms and conditions of proposals, provided in this document, the bidder shall be bound by the provisions of the General Conditions of Contract attached hereto, an originally signed copy of which must be submitted together with all other bid documentation.
- 13.15 All returnable bid documents must be completed in full and submitted together with the bidder's proposal.
- 13.16 SALGA will not be liable for costs incurred during the site visits or any other cost related to the submission of the bid.
- 13.17 Completion of the Standard Bidding Documents stated herein below is **mandatory**, failure to do so **may** render your bid offer invalid.
- 13.18 Preference Points Claim form**
Form SBD 6.1 - Bidders must complete this document in full, special attention must be given to section 8 and 9. DO NOT RETYPE THESE FORMS. They must be completed on the original and signed, all in black ink.
- 13.19 Declaration of Interest**
Form SBD 4 - Bidders must complete this document in full. DO NOT RETYPE THESE FORMS. They must be completed on the original and signed, all in black ink.
- 13.20 Declaration of past Supply Chain Management Practice**
Form SBD 8 - Bidders must complete this document in full. DO NOT RETYPE THESE FORMS. They must be completed on the original and signed, all in black ink.
- 13.21 Certificate of Independent Bid Determination**
Form SBD 9 - Bidders must complete this document in full. DO NOT RETYPE THESE FORMS. They must be completed on the original and signed, all in black ink.
- 13.22 Pricing Schedule**
Form SBD 3.3. Price must be quoted in South African currency and must be inclusive of VAT. Bidders are further requested to indicate their price in all elements listed on the pricing schedule.

13.23 Supplier Registration.

Bidders must register on CSD. FIND ATTACHED THE NATIONAL TREASURY INSTRUCTION NOTE 4A OF 2016/2017 CENTRAL SUPPLIER DATABASE.

Successful bidders will be expected to further submit a Bank Indemnity Form stamped by the bank in order to be registered in our database.

13.24 An original or certified copy of a valid BBEE certificate must be submitted together with the bid offer.

13.25 SBD1 must be completed in full and signed

14. EVALUATION OF BIDS

The following evaluation method will be used:

- After the closing date of the bid invitation, all bids received will be tested for compliance on all the mandatory and legislative requirements prescribed in the National Treasury Supply Chain Management regulations.
- Thereafter an appointed evaluation committee of SALGA officials and/or other external parties will evaluate the proposals of the bidders.
- The committee will individually evaluate each of the bid proposals received against the stipulated criteria as provided for in Preferential Procurement Policy Framework Act of 2005 (As amended to BBEE).

All proposals submitted will be evaluated on three categories:

- a) Functionality (technical content);
- b) Pricing;
- c) B-BBEE status level of contribution.

- Bids are evaluated in accordance with the provisions of the Preferential Procurement Policy Framework Act (PPPFA), using the 90/10 preference points system.
- Firstly, the assessment of functionality shall be done in terms of the evaluation criteria and the bidders are expected to score a minimum threshold value of 70 points. The bid will be disqualified and shall not be considered any further in the process if it fails to meet the minimum threshold value for functionality as per the bid invitation.
- Only qualifying bids are evaluated in terms of the 90/10 preference points systems, 90 points will be used for price only and the 10 points are used for B-BBEE Status Level of Contribution.

The point's breakdown is as indicated below.

For functionality, the following criteria will be applicable and the maximum value of each criterion is indicated as below:

APPLICABLE EVALUATION CRITERIA	WEIGHT
Suitability of proposed Land and Buildings to SALGA requirements <ul style="list-style-type: none">• Land size• Building size, i.e. lettable area	65

<ul style="list-style-type: none"> • Location (accessibility and visibility) • Future growth and spatial planning • 3D/4D models (Photos of existing buildings will be accepted) 	
Capability to deliver Development of New Building: <ul style="list-style-type: none"> • Company profile (technical experience, capacity, capabilities, etc) • Track record of specific projects equal or larger than the proposed • Timeframes of previous projects delivered • Rating (at least 5 signed references) of such projects with emphasis of timelines, at appointed contract value and quality • Delivery timeframes and project plan • Audited financial statements of bidder for the past 3 years Existing Building: <ul style="list-style-type: none"> • Company profile (technical experience, capacity, capabilities, etc) • Rating (at least 5 signed references) of such projects with emphasis of timelines, at appointed contract value and quality • Proof of Ownership • Proof that Rates & Taxes are in order • Compliance Certificates (Electrical & Plumbing; Fire and Structural) 	35
Total for functionality	100

Bidders who score a minimum score of 70 (threshold) points and above will be considered in phase 2 of the evaluation, which pricing and B-BBEE Points. Qualifying bidders will be required to make presentation to the SALGA bid committee members and where required site inspection will be conducted.

Phase 2

Price will be converted to 90 using the formula prescribed in the 90/10 points system. The remaining 10 points will be allocated in terms of Regulation 5 (2) and 6 (2) of the Preferential Procurement Regulations. Preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

Summary of the evaluation process:

CRITERIA	WEIGHT
Price	90
B-BBEE status level of contribution	10
TOTAL	100

15. EVALUATION OF THE PROPOSED BUILDING

SALGA's Political and Administrative Management will view the proposed building to determine its suitability before making a final decision.

16. TERMS AND CONDITIONS

- a. SALGA reserves the right to terminate the appointment or any part thereof; at any stage of completion should SALGA decide not to proceed with the project.
- b. Materials and products may not be made available to any unauthorized person or institution or sold for profit without prior written consent from SALGA.
- c. On completion or termination of the agreement, the building must be handed over to SALGA on a turnkey basis.
- d. No information concerning the tender or award of the tender may be made available by the bidder to other parties without prior consultation and written approval from SALGA.

17. ENQUIRIES

Any queries and enquiries should be submitted in writing to the following email address: scm@salga.org.za.

INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION (SALGA)

BID NUMBER: SALGA/45/2016 CLOSING DATE: 04 May 2017 CLOSING TIME: 11:00

DESCRIPTION: THE SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION (SALGA) HEREBY REQUESTS PROPOSALS FOR THE PROVISION OF OFFICE ACCOMMODATION FOR ITS WESTERN CAPE OFFICE IN CAPE TOWN

The successful bidder will be required to fill in and sign a written Contract Form (SBD 7).

BID DOCUMENTS MAY BE POSTED TO: **P O Box 2094
Pretoria
0001**

OR

DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)

**SALGA NATIONAL OFFICE
MENLYN CORPORATE PARK, BLOCK B, 175 COROBAY AVENUE, CNR GARSFONTEIN AND COROBAY,
WATERKLOOF GLEN EXT 11, PRETORIA**

Bidders should ensure that bids are delivered timeously to the correct address. If the bid is late, it will not be accepted for consideration.

The bid box is generally open 24 hours a day, 7 days a week.

ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS – (NOT TO BE RE-TYPED)

THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2011, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT

THE FOLLOWING PARTICULARS MUST BE FURNISHED
(FAILURE TO DO SO MAY RESULT IN YOUR BID BEING DISQUALIFIED)

NAME OF BIDDER

POSTAL ADDRESS

STREET ADDRESS

TELEPHONE NUMBER CODE.....NUMBER.....

CELLPHONE NUMBER

FACSIMILE NUMBER CODE NUMBER.....

E-MAIL ADDRESS

VAT REGISTRATION NUMBER

HAS AN ORIGINAL AND VALID TAX CLEARANCE CERTIFICATE BEEN SUBMITTED? (SBD 2) YES or NO

HAS A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE BEEN SUBMITTED? (SBD 6.1) YES or NO

IF YES, WHO WAS THE CERTIFICATE ISSUED BY?

AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA).....
A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS); OR.....
A REGISTERED AUDITOR
[TICK APPLICABLE BOX]

(A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE 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?

YES or NO

[IF YES ENCLOSE PROOF]

SIGNATURE OF BIDDER

DATE

CAPACITY UNDER WHICH THIS BID IS SIGNED

TOTAL BID PRICE..... TOTAL NUMBER OF ITEMS OFFERED

ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:

Department: South African Local Government Association (SALGA)

Contact Person: Ms. Precious Nzuzi

Tel: 012 369 8000

E-mail address: scm@salga.org.za

PRICING SCHEDULE
(Professional Services)

NAME OF BIDDER:	BID NO.: SALGA/45/2016
CLOSING TIME 11:00	CLOSING DATE: 28 APRIL 2017

OFFER TO BE VALID FOR **120** DAYS FROM THE CLOSING DATE OF BID.

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

1. The accompanying information must be used for the formulation of proposals.

2. Bidders are required to indicate a ceiling price based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project. R.....

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

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

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

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

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

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

TOTAL: R.....

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

Name of Bidder:

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

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

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

*[DELETE IF NOT APPLICABLE]

Any enquiries regarding bidding procedures may be directed to the –

Department: South African Local Government Association (SALGA)

Contact Person: Ms. Precious Nzuza

Tel: 012 369 8000

E-mail address: scm@salga.org.za

DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-
 - the bidder is employed by the state; and/or
 - the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

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

2.1 Full Name of bidder or his or her representative:

2.2 Identity Number:

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

2.4 Company Registration Number:

2.5 Tax Reference Number:

2.6 VAT Registration Number:

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

¹“State” means –

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

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

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

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member:
Name of state institution at which you or the person connected to the bidder is employed :
Position occupied in the state institution:

Any other particulars:
.....
.....
.....

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

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

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

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

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

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

2.8.1 If so, furnish particulars:

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

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

4 DECLARATION

I, THE UNDERSIGNED (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT.
I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF
PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION
PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

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

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

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2011.

1. GENERAL CONDITIONS

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

- the 80/20 system for requirements with a Rand value of up to R1 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R1 000 000 (all applicable taxes included).

1.2 The value of this bid is estimated to exceed/not exceed R1 000 000 (all applicable taxes included) and therefore the preference point system shall be applicable.

1.3 Preference points for this bid shall be awarded for:

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

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

	POINTS
PRICE	10
B-BBEE STATUS LEVEL OF CONTRIBUTION	90
Total points for Price and B-BBEE must not exceed	100

1.5 Failure on the part of a bidder to submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS), or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or a sworn affidavit confirming annual turnover and level of black ownership in case of an EME and QSE together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

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

2. DEFINITIONS

- (a) **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- (b) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (c) **“B-BBEE status level of contributor”** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard

contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

- (d) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- (e) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (f) **“comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- (g) **“consortium or joint venture”** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
- (h) **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- (i) **“EME”** means an Exempted Micro Enterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (j) **“Firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- (k) **“functionality”** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- (l) **“non-firm prices”** means all prices other than “firm” prices;
- (m) **“person”** includes a juristic person;
- (n) **“QSE”** means a Qualifying Small EEnterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (o) **“rand value”** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- (p) **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
- (q) **“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;
- (r) **“trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- (s) **“trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

3. ADJUDICATION USING A POINT SYSTEM

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

4. POINTS AWARDED FOR PRICE

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

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

80/20

or

90/10

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

Where

P_s = Points scored for comparative price of bid under consideration

P_t = Comparative price of bid under consideration

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

5. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTION

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

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	8	16
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

- 5.2 A bidder who qualifies as a EME in terms of the B-BBEE Act must submit a sworn affidavit confirming Annual Total Revenue and Level of Black Ownership.
- 5.3 A Bidder other than EME or QSE must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating

issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.

- 5.4 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 5.6 Tertiary Institutions and Public Entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 5.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

6. BID DECLARATION

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

7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 5.1

- 7.1 B-BBEE Status Level of Contribution: . =(maximum of 10 or 20 points)
 (Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or a sworn affidavit.

8. SUB-CONTRACTING

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

(Tick applicable box)

YES	NO
-----	----

- 8.1.1 If yes, indicate:

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

(Tick applicable box)

YES	NO
-----	----

9. DECLARATION WITH REGARD TO COMPANY/FIRM

- 9.1 Name of company/firm:.....
- 9.2 VAT registration number:.....
- 9.3 Company registration number:.....

9.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

.....

.....

9.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

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

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

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

WITNESSES

1.

2.

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

DATE:

ADDRESS

.....

.....

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

Item	Question	Yes	No
4.1	<p>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p>The Database of Restricted Suppliers now resides on the National Treasury's website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	<p>Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	<p>Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	<p>Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>

4.4.1	If so, furnish particulars:
-------	-----------------------------

SBD 8

CERTIFICATION

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

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

Js365bW

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Standard Bidding Document (SBD) must form part of all bids¹ invited.

- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.

- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.

- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.

- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

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

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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

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

I certify, on behalf of: _____ that:

(Name of Bidder)

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

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

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

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

Js914w 2

THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT

July 2010

GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT
July 2010

NOTES

The purpose of this document is to:

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

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

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

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General Conditions of Contract

1. Definitions

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

RSA.

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

obligations of the supplier covered under the contract.

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

2. Application

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

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

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

3. General

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

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

4. Standards

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

5. Use of contract documents and information; inspection.

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

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

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

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

6. Patent rights

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

7. Performance security

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

8. Inspections, tests and analyses

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

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

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

9. Packing

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

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

10. Delivery and documents

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

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

11. Insurance

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

12. Transportation

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

13. Incidental services

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

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

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

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

14. Spare parts

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

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

15. Warranty

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

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

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

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

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

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

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

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

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

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

22. Penalties

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

23. Termination for default

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

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

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

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

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

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

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

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

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

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

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

24. Anti-dumping and countervailing duties and rights

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

may be due to him

25. Force Majeure

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

26. Termination for insolvency

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

27. Settlement of Disputes

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

28. Limitation of liability

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

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

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