



## agriculture & rural development

Department:  
agriculture  
& rural development  
**PROVINCE OF KWAZULU-NATAL**

### **KWAZULU-NATAL DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT**

**BID No: DARD 09/20A**

**DESCRIPTION OF SERVICE:**  
**APPOINTMENT OF A SERVICE PROVIDER TO OVERSEE THE IMPLEMENTATION OF  
FOUR (04) AGRI-HUBS IN KWAZULU NATAL PROVINCE**

**NAME OF BIDDER:** \_\_\_\_\_

#### **COMPULSORY BRIEFING SESSION**

Venue	Department of Agriculture and Rural Development Cedara, Auditorium
Date	Thursday, 16 July 2020
Time	10h00

#### **PREQUALIFICATION CRITERIA**

Only tenderers who meet the following prequalification criteria may respond: -

- (i) BBBEE Level 1 (as per the provisions of section 4(1) (a) of the PPPFA Regulations, 2017); and**
- (ii) EME or QSE (as per the provisions of section 4(1) (b) of the PPPFA Regulations, 2017)**

#### **Return of Bid:**

Bids must be deposited in the bid box situated at Department of Agriculture and Rural Development, Supply Chain Management, 1 Cedara Road, Cedara, 3200 or send by post to The Director: Supply Chain Management, Private Bag X9059, Pietermaritzburg, 3200.

Tel: **(033) 355 9109** before **11:00** am on the closing date: **30 July 2020**

#### **Issued by:**

The Department of Agriculture and Rural Development  
1 Cedara Road  
Cedara  
3200

## TABLE OF CONTENTS

		CONTENTS	PAGE
		Cover page	1
		Table of contents	2
Part A	SBD 1	Invitation to Bid	3-4
	SBD 3	Special Instructions and Notices to Bidders Regarding the Completion of Bidding Forms	5
	SBD 3.3	Pricing Schedule (Professional Services)	6
	SBD 4	Declaration of Interest.	7-9
	SBD 6.1	Preference Points Claim Form in Terms of the Preferential Procurement Regulations 2017	10-14
	SBD 7.2	Contract Form - Rendering Of Services	15-16
	SBD 8	Declaration of bidder’s past Supply Chain Management practices	17-18
	SBD 9	Certificate of Independent Bid Determination	19-21
	SBD11	Authority to sign a Bid	22-27
Part B		General Conditions of Contract	28-41
Part C		Terms of Reference	42-51
Part D		Special Terms and Conditions	52-62
Part E		Bid Evaluation Criteria	63-66
Annexure B		Previous / Current Contracts	67

**Bidders are to check that all pages and forms are included in the bid documentation and notify the Department immediately if any pages or sections are missing**

SBD1

## INVITATION TO BID

**YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)**

BID NUMBER:	<b>DARD 09/20A</b>	CLOSING DATE:	<b>30/07/2020</b>	CLOSING TIME:	<b>11:00 AM</b>
-------------	--------------------	---------------	-------------------	---------------	-----------------

DESCRIPTION	Appointment of a service provider to oversee the implementation of four (04) Agri-Hubs in KZN
-------------	---

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

Bid must be deposited in the bid box situated at Department of Agriculture and Rural Development

Supply Chain Management

1 Cedara Road

Cedara, 3200

**BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO****TECHNICAL ENQUIRIES MAY BE DIRECTED TO:**

CONTACT PERSON	<b>Ms Nozizwe Makaula</b>	CONTACT PERSON	<b>Mr MJ Mfusi</b>
TELEPHONE NUMBER	<b>033 355 9109</b>	TELEPHONE NUMBER	<b>082 419 2881</b>
FACSIMILE NUMBER	<b>n/a</b>	FACSIMILE NUMBER	<b>n/a</b>
E-MAIL ADDRESS	<b>nozizwe.makaula@kzndard.gov.za</b>	E-MAIL ADDRESS	

**SUPPLIER INFORMATION**

NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No	

**[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]**

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART B:3 ]
---	--	--	--

**QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS**

IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? ☐ YES ☐ NO

DOES THE ENTITY HAVE A BRANCH IN THE RSA? ☐ YES ☐ NO

DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? ☐ YES ☐ NO

DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? ☐ YES ☐ NO

IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? ☐ YES ☐ NO

**IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.**

## TERMS AND CONDITIONS FOR BIDDING

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

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

SIGNATURE OF BIDDER: .....

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

DATE: .....

**SPECIAL INSTRUCTIONS AND NOTICES TO BIDDERS REGARDING THE  
COMPLETION OF BIDDING FORMS**

PLEASE NOTE THAT THIS BID IS SUBJECT TO TREASURY REGULATIONS 16A ISSUED IN TERMS OF THE PUBLIC FINANCE MANAGEMENT ACT, 1999, THE KWAZULU-NATAL SUPPLY CHAIN MANAGEMENT POLICY FRAMEWORK AND THE GENERAL CONDITIONS OF CONTRACT.

1. Unless inconsistent with or expressly indicated otherwise by the context, the singular shall include the plural and vice versa and with words importing the masculine gender shall include the feminine and the neuter.
2. Under no circumstances whatsoever may the bid forms be retyped or redrafted. Photocopies of the original bid documentation may be used, but an original signature must appear on such photocopies.
3. The bidder is advised to check the number of pages and to satisfy himself that none are missing or duplicated.
4. Bids submitted must be complete in all respects.
5. Bids shall be lodged at the address indicated not later than the closing time specified for their receipt, and in accordance with the directives in the bid documents.
6. Each bid shall be addressed in accordance with the directives in the bid documents and shall be lodged in a separate sealed envelope, with the name and address of the bidder, the bid number and closing date indicated on the envelope. The envelope shall not contain documents relating to any bid other than that shown on the envelope. If this provision is not complied with, such bids may be rejected as being invalid.
7. All bids received in sealed envelopes with the relevant bid numbers on the envelopes are kept unopened in safe custody until the closing time of the bids. Where, however, a bid is received open, it shall be sealed. If it is received without a bid number on the envelope, it shall be opened, the bid number ascertained, the envelope sealed and the bid number written on the envelope.
8. A specific box is provided for the receipt of bids, and no bid found in any other box or elsewhere subsequent to the closing date and time of bid will be considered.
9. No bid sent through the post will be considered if it is received after the closing date and time stipulated in the bid documentation, and proof of posting will not be accepted as proof of delivery.
10. No bid submitted by telefax, telegraphic or other electronic means will be considered.
11. Bidding documents must not be included in packages containing samples. Such bids may be rejected as being invalid.
12. Any alteration made by the bidder must be initialed.
13. Use of correcting fluid is prohibited
14. Bids will be opened in public as soon as practicable after the closing time of bid.
15. Where practical, prices are made public at the time of opening bids.
16. If it is desired to make more than one offer against any individual item, such offers should be given on a photocopy of the page in question. Clear indication thereof must be stated on the schedules attached.

**PRICING SCHEDULE**

NAME OF BIDDER: .....

CLOSING TIME: **11h00** CLOSING DATE: **30 JULY 2020**

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

BID NUMBER	DESCRIPTION	TOTAL BID PRICE IN RSA CURRENCY *(All applicable taxes included)
<b>DARD 09/20A</b>	<b>APPOINTMENT OF A SERVICE PROVIDER TO OVERSEE THE IMPLEMENTATION OF FOUR 04) AGRI-HUBS IN KWAZULU NATAL PROVINCE</b>	

Official Company  
Stamp

Signature

## DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state<sup>1</sup>, 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, shareholder<sup>2</sup>): .....
  - 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.

<sup>1</sup>"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.

<sup>2</sup>"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:

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

2.9.1 If so, furnish particulars.

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

2.10 Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between any other bidder and any person employed by the state who may be involved with the evaluation and or adjudication of this bid? YES/NO



2.10.1 If so, furnish particulars

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

2.11 Do you or any of the directors / trustees / shareholders / members of the company have any interest in any other related companies whether or not they are bidding for this contract?

**YES/NO**

2.11.1 If so, furnish particulars.....

.....  
.....

**3 Full details of directors / trustees / members / shareholders.**

Full Name	Identity Number	Personal Tax Reference Number	State Employee Number / Persal Number

**4 DECLARATION**

I, THE UNDERSIGNED (NAME).....  
CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT.  
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 2017

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

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

### 1. GENERAL CONDITIONS

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

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

1.2

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

1.3 Points for this bid shall be awarded for:

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

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

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

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

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

## 2. DEFINITIONS

- (a) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **“B-BBEE status level of contributor”** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) **“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 goods or services, through price quotations, advertised competitive bidding processes or proposals;
- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **“EME”** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) **“prices”** includes all applicable taxes less all unconditional discounts;
- (h) **“proof of B-BBEE status level of contributor”** means:
- |    |   |        |                 |
|----|---|--------|-----------------|
| 1) | level certificate issued by an authorized body or person; | B-BBEE | Status          |
| 2) | as prescribed by the B-BBEE Codes of Good Practice;       | A      | sworn affidavit |
| 3) | requirement prescribed in terms of the B-BBEE Act;        | Any    | other           |
- (i) **“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

## 3. POINTS AWARDED FOR PRICE

### 3.1 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 price of bid under consideration  
 $P_t$      =     Price of bid under consideration  
 $P_{\min}$    =     Price of lowest acceptable bid

#### 4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

- 4.1 In terms of Regulation 6 (2) and 7 (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	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

#### 5. BID DECLARATION

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

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

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

#### 7. SUB-CONTRACTING

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

(*Tick applicable box*)

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

- 7.1.1 If yes, indicate:

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

(*Tick applicable box*)

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

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

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

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

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

8.2 VAT registration number:.....

8.3 Company registration number:.....

**8.4 TYPE OF COMPANY/ FIRM**

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

[TICK APPLICABLE BOX]

**8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

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

**8.6 COMPANY CLASSIFICATION**

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

[TICK APPLICABLE BOX]

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

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in

paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
  - (a) disqualify the person from the bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
  - (e) forward the matter for criminal prosecution.

WITNESSES

- 1. ....
- 2. ....

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

DATE: .....  
ADDRESS .....  
.....  
.....

**CONTRACT FORM - RENDERING OF SERVICES**

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

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

1. I hereby undertake to render services described in the attached bidding documents to (name of the institution)..... in accordance with the requirements and task directives / proposals specifications stipulated in Bid Number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid.
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
  - (i) Bidding documents, viz
    - Invitation to bid;
    - Tax clearance certificate;
    - Pricing schedule(s);
    - Filled in task directive/proposal;
    - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2011;
    - Declaration of interest;
    - Declaration of bidder's past SCM practices;
    - Certificate of Independent Bid Determination;
    - Special Conditions of Contract;
  - (ii) General Conditions of Contract; and
  - (iii) Other (specify)
3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfilment of this contract.
5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT) .....

CAPACITY .....

SIGNATURE .....

NAME OF FIRM .....

DATE .....

**WITNESSES**

1 .....

2 .....

DATE: .....

**CONTRACT FORM - RENDERING OF SERVICES****PART 2 (TO BE FILLED IN BY THE PURCHASER)**

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

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

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

SIGNED AT .....ON.....

NAME (PRINT) .....

SIGNATURE .....  
OFFICIAL STAMP



WITNESSES

1 .....

2 .....

.....



## DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

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

**CERTIFICATION**

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

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

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

.....  
**Signature**

.....  
**Date**

.....  
**Position**

.....  
**Name of Bidder**

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

- 1 This Standard Bidding Document (SBD) must form part of all bids<sup>1</sup> 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).<sup>2</sup> 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. disregards 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:

<sup>1</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

<sup>2</sup> 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 consortium<sup>3</sup> 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.
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

## AUTHORITY TO SIGN A BID

### A. COMPANIES

If a Bidder is a company, a certified copy of the resolution by the board of directors, personally signed by the chairperson of the board, authorising the person who signs this bid to do so, as well as to sign any contract resulting from this bid and any other documents and correspondence in connection with this bid and/or contract on behalf of the company must be submitted with this bid, that is before the closing time and date of the bid

### AUTHORITY BY BOARD OF DIRECTORS

By resolution passed by the Board of Director .....20.....,

Mr/Mrs.....

(whose signature appears below) has been duly authorised to sign all documents in connection with this bid on behalf of

(Name of Company) .....

IN HIS/HER CAPACITY AS: .....

### SIGNED ON BEHALF OF COMPANY:

.....  
(PRINT NAME)

SIGNATURE OF SIGNATORY: ..... DATE: .....

WITNESSES: 1.....

2.....

**B. SOLE PROPRIETOR (ONE - PERSON BUSINESS)**

I, the undersigned..... hereby confirm that I am the  
sole owner of the business trading as.....

.....

**SIGNATURE**..... **DATE**.....

**C. PARTNERSHIP**

The following particulars in respect of every partner must be furnished and signed by every partner:

Full name of partner	Residential address	Signature
----------------------	---------------------	-----------

.....	.....	.....
-------	-------	-------

.....	.....	.....
-------	-------	-------

.....	.....	.....
-------	-------	-------

We, the undersigned partners in the business trading  
as.....hereby authorise  
.....to sign this bid as well as any contract resulting from  
the bid and any other documents and correspondence in connection with this bid and /or contract on  
behalf of

..... <b>SIGNATURE</b>	..... <b>SIGNATURE</b>	..... <b>SIGNATURE</b>
---------------------------	---------------------------	---------------------------

..... <b>DATE</b>	..... <b>DATE</b>	..... <b>DATE</b>
----------------------	----------------------	----------------------

#### **D. CLOSE CORPORATION**

In the case of a close corporation submitting a bid, a certified copy of the Founding Statement of such corporation

shall be included with the bid, together with the resolution by its members authorising a member or other official of

the corporation to sign the documents on their behalf.

By resolution of members at a meeting on ..... 20.....

at..... Mr/Ms....., whose signature

appears below, has been authorised to sign all documents in connection with this bid on behalf of

(Name of Close Corporation) .....

.....

#### **SIGNED ON BEHALF OF CLOSE CORPORATION:**

.....

(PRINT NAME)

**IN HIS/HER CAPACITY AS** ..... **DATE:** .....

**SIGNATURE OF SIGNATORY:** .....

**WITNESSES:** 1.....

2.....



## **E CO-OPERATIVE**

A certified copy of the Constitution of the co-operative must be included with the bid, together with the resolution by its members authoring a member or other official of the co-operative to sign the bid documents on their behalf.

By resolution of members at a meeting on ..... 20.....

at.....

Mr/Ms....., whose signature appears below, has been authorised to sign all documents in connection with this bid on behalf of (Name of cooperative) .....

**SIGNATURE OF AUTHORISED REPRESENTATIVE/SIGNATORY:** .....

**IN HIS/HER CAPACITY AS:** .....

**DATE:** .....

**SIGNED ON BEHALF OF CO-OPERATIVE:** .....

**NAME IN BLOCK LETTERS:** .....

**WITNESSES: 1**.....

**2**.....

## **F JOINT VENTURE**

If a bidder is a joint venture, a certified copy of the resolution/agreement passed/reached signed by the duly authorised representatives of the enterprises, authorising the representatives who sign this bid to do so, as well as to sign any contract resulting from this bid and any other documents and correspondence in connection with this bid and/or contract on behalf of the joint venture must be submitted with this bid, before the closing time and date of the bid.

### **AUTHORITY TO SIGN ON BEHALF OF THE JOINT VENTURE**

By resolution/agreement passed/reached by the joint venture partners on.....20.....

Mr/Mrs.....,Mr/Mrs.....

Mr/Mrs.....and Mr/Mrs.....

(whose signatures appear below) have been duly authorised to sign all documents in connection with this bid on behalf of:(Name of Joint Venture) .....

IN HIS/HER CAPACITY AS: .....

SIGNED ON BEHALF OF (COMPANY NAME): .....  
(PRINT NAME)

SIGNATURE: ..... DATE: .....

IN HIS/HER CAPACITY AS: .....

SIGNED ON BEHALF OF (COMPANY NAME): .....  
(PRINT NAME)

SIGNATURE: ..... DATE: .....

IN HIS/HER CAPACITY AS: .....

SIGNED ON BEHALF OF (COMPANY NAME): .....  
(PRINT NAME)

SIGNATURE: ..... DATE: .....

IN HIS/HER CAPACITY AS: .....

## **G. CONSORTIUM**

If a bidder is a consortium, a certified copy of the resolution/agreement passed/reached signed by the duly authorised representatives of concerned enterprises, authorising the representatives who sign this bid to do so, as well as to sign any contract resulting from this bid and any other documents and correspondence in connection with this bid and/or contract on behalf of the consortium must be submitted with this bid, before the closing time and date of the bid.

### **AUTHORITY TO SIGN ON BEHALF OF THE CONSORTIUM**

By resolution/agreement passed/reached by the consortium on.....20.....

Mr/Mrs.....

(whose signature appear below) have been duly authorised to sign all documents in connection with this bid on behalf of:

(Name of Consortium) .....

**IN HIS/HER CAPACITY AS:** .....

**SIGNATURE:** ..... **DATE:** .....

## **PART B**

### **GENERAL CONDITIONS OF CONTRACT**

**DEFINITIONS:** The following terms shall be interpreted as indicated:

- (a) "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
- (b) "Contract" means the written agreement entered into between the Province and the Contractor, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (c) "Contract price" means the price payable to the Contractor under the contract for the full and proper performance of his contractual obligations.
- (d) "Corrupt practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
- (e) "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
- (f) "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 recognised new product results that is substantially different in basic characteristics or in purpose or utility from its components.
- (g) "Day" means calendar day.
- (h) "Delivery" means delivery in compliance with the conditions of the contract or order.
- (i) "Delivery ex stock" means immediate delivery directly from stock actually on hand.
- (j) "Delivery into consignees store or to his site" means delivery and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the Contractor bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
- (k) "Dumping" occurs when a private enterprise abroad market its goods and services 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.
- (l) "Force majeure" means an event beyond the control of the Contractor and not involving the Contractor's fault or negligence and not foreseeable. Such event may include, but is not restricted to, acts of the Province in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- (m) "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.

- (n) "GCC" means the General Conditions of Contract.
- (o) "Goods" means all the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- (p) "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 Contractor 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 supplies covered by the bid will be manufactured.
- (q) "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- (r) "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- (s) "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- (t) "Project site" where applicable, means the place indicated in bidding documents.
- (u) "Province" means the procuring Department, incorporating the KwaZulu-Natal Provincial Legislature.
- (v) "Republic" means the Republic of South Africa.
- (w) "SCC" means the Special Conditions of Contract.
- (x) "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 Contractor covered under the contract.
- (y) "Written" or "in writing" means handwritten in ink or any form of electronic or mechanical writing.

## **1. CESSION OF CONTRACTS**

- 1.1 The Contract is personal to the Contractor who shall not sub-let, assign, cede or make over the Contract or any part thereof, or any share of interest therein, to any other person without the written consent of the Province, and on such conditions as it may approve.
- 1.2 This sub-clause shall not apply to sub-contracts given to regular suppliers of the Contractor for materials and minor components relating to the goods or services supplied. The Province reserves the right to require the Contractor to submit, for noting, the names of such sub-contractors in order to ascertain their registration on the Provincial Suppliers Database and they must be legal entities.

## **2. DISCREPANCIES**

Should there appear to be any discrepancies, ambiguities or want of agreement in description, dimensions, qualities or quantities in the Contract, the Contractor shall be obliged to refer the matter to the Provinces' Representative for a decision, before proceeding to execute the Contract or part thereof in respect of which the said discrepancies, ambiguities or want of agreement appear to exist.

## **3. QUALITY AND GUARANTEE**

- 3.1 All Goods supplied shall be equal in all respects to samples, patterns or specifications where such are provided. Any changes to quality or brands will have to be approved by the Province, as this is a change to the conditions of the contract.
- 3.2 Should the Province, after the award of the Contract and/or during the manufacture of the goods specified, decide on a variation or alteration to the specification, either at the suggestion of the Contractor or otherwise, which will be to the Province's advantage, such variation or alteration shall be performed to the Province's satisfaction. Any variation in the Contract Price arising there from shall be subject to agreement between the Province and the Contractor.
- 3.3 The Contractor shall not be relieved of his obligations with respect to the sufficiency of the materials and workmanship and the quality of the Goods supplied by the reason of no objection having been taken thereto by the Province's Representative at the time the Goods were delivered.
- 3.4 The Contractor 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 Contractor 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 Contractor, that may develop under normal use of the supplied goods in the conditions prevailing in the country of the final destination.
- 3.5 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 the Special Conditions of Contract.

- 3.6 The Province shall promptly notify the Contractor in writing of any claims arising under this warranty. The Contractor shall immediately remedy the said defect free of cost to the Province. Should the Contractor delay remedial work in excess of time stipulated by the Province's representative, the Province may have such remedial work executed at the Contractor's expense. Should the Province decide that the defect is such that it cannot be remedied, the Goods may be rejected. Such rejected goods shall be held at the risk and expense of the Contractor and shall, on request of the Province, be removed by him immediately on receipt of notification of rejection. The Contractor shall be responsible for any loss the Province may sustain by reason of such action as the Province may take, in terms of this clause.
- 3.7 The risk in respect of the Goods purchased by the Province under the contract shall remain with the Contractor until such goods have been delivered to the Province.
- 3.8 The principle feature of the Goods and Work are described in the Goods or Services Information, but the Goods or Services Information does not purport to indicate every detail of construction, fabrication or arrangements of Goods and Works necessary to meet the requirements. Omission from the Goods or Services information of reference to any part or parts shall not relieve the Contractor of his responsibility for carrying out the Work as required under the Contract.
- 3.9 If any dispute arises between the Province and the Contractor in connection with the quality and guarantee of the Goods, either party may give the other notice in writing of the existence of such dispute, and the same shall thereupon be referred to arbitration in South Africa by a person mutually agreed upon by both parties. The submission shall be deemed to be a submission to arbitration within the meaning of the terms of the arbitration laws in force in the Republic of South Africa.

#### **4. FAILURE TO COMPLY WITH CONDITIONS AND DELAYED EXECUTION**

- 4.1 If a bidder amends or withdraws his/her/their bid after the closing time but before the bidder is notified that his/her/their bid has been accepted, or when notified that his/her/their bid has been accepted, he/she/they fail/fails, within the period stipulated in the conditions of bid or such extended period as the Province may allow, to sign a contract or to provide security when requested to do so, he/she/they shall, unless the Province decides otherwise, and without prejudice to any other right which the Province may have under paragraphs 4.2 and 4.4, including the right to claim damages if a less favourable bid is accepted or less favourable arrangements are to be made, forfeit any deposit which may have been made with the bid.
- 4.2 Should the contractor fail to comply with any of the conditions of the contract, the Province shall be entitled, without prejudice to any of its other rights, to cancel the contract.
- 4.3 Upon any delay beyond the contract period in the case of a supplies contract, the Province shall, without canceling the contract, be entitled forthwith 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 supplies delivered later at the contractor's expense and risk, or forthwith to cancel the contract and buy such supplies as may be required to complete the contract, and without prejudice to its rights, be entitled to claim damages from the contractor.
- 4.4 Upon any delay beyond the contract period in the case of a service contract, the Province shall, without prejudice to any other right and without canceling the contract, be entitled forthwith to arrange the execution of the service not rendered in conformity with the contract or to cancel the contract, and without prejudice to its other rights, be entitled to claim damages from the contractor.

- 4.5 In the event of the Province availing itself of the remedies provided for in paragraph 4.2-
- 4.5.1 the contractor shall bear any adverse difference in price of the said supplies services and these amounts plus any other damages which may be suffered by the Province, shall be paid by the contractor to the Province immediately on demand, or the Province may deduct such amounts from moneys (if any) otherwise payable to the contractor in respect of supplies or services rendered or to be rendered under the contract or under any other contract or any other amounts due to the contractor; or
- 4.5.2 if the Contractor fails to supply the goods or render the service within the period stipulated in the contract, the Province shall have the right, in its sole discretion, to claim any damages or loss suffered.
- 4.6 No damages shall be claimed in respect of any period of delay which the contractor can prove to be directly due to a state of war, sanctions, strikes, lockouts, damage to machinery as a result of accidents, fire, flood or tempest or act of God, which could not be foreseen or overcome by the contractor, or to any act or omission on the part of persons acting in any capacity on behalf of the Province.
- 4.7 If the delivery of the supplies or the rendering of the service is likely to be delayed or is in fact being delayed on account of any of the reasons mentioned in paragraph 4.6, full particulars of the circumstances shall be reported forthwith in writing to the Province and at the same time the contractor shall indicate the extension of the delivery period which is desired.

## **5. PATENTS**

- 5.1 The Contractor shall pay all royalties and expenses and be liable for all claims in respect of the use of patent rights, trademarks or other protected rights, and hereby indemnifies the Province against any claims arising there from.
- 5.2 The Contractor shall indemnify the Province against all third-party claims of infringement of patent, trademark, or industrial design rights arising from the use of the goods or any part thereof by the Province.

## **6. PACKAGING, MARKING AND DELIVERY**

- 6.1 All goods shall be crated, packed or battened securely in such a manner as to prevent damage during loading, transport and off-loading. Unless otherwise specified, packing cases and packing materials are included in the Contract Price, and shall be and remain the property of the Province.
- 6.2 All goods shall be clearly marked in the manner stated in the Goods or Services Information.
- 6.3 Goods shall be delivered to the address within the Province's area of jurisdiction as set out in the Special Conditions of Contract or Goods and Services Information.
- 6.4 Goods shall be delivered on Weekdays between 08:00 and 16:00, free of all charges, only when ordered upon an official letter or form of order issued by the Province. No goods will be received on Saturdays, Sundays and public holidays. This paragraph (6.4) is applicable only when not excluded in the Special Conditions of Contract.
- 6.5 Goods delivered shall in all cases be accompanied by delivery notes in duplicate, one which will be retained by the Province. The Contractor shall be responsible for the safe delivery as to the quality, quantity and condition of the goods.



- 6.6 Delivery, unless otherwise provided for in the Special Conditions of Contract, shall be affected within seven (7) days from receipt of the order. The Contractor shall advise the Province upon receipt of an order in writing of any anticipated delays, citing reasons therefore and put forward a new anticipated delivery date. The Province may then extend the delivery date, if and as it deems fit.
- 6.7 Should the Contractor fail to supply the material within the time stated in his bid, or within the extended time allowed to him in terms of clause 6.6 hereof, the Province reserves the right (after giving the Contractor seven days' notice in writing) to cancel the contract and purchase the materials elsewhere and the bidder shall refund to the Province any extra cost incurred over and above the contract price. No liability shall, however, be attached to the Contractor if delivery of materials is rendered impossible or delayed by reason of circumstances beyond the Contractor's control.
- 6.8 If the Contractor cannot produce proof satisfactory to the Province that the delay was due to circumstances beyond his control, no price increase after the due date will be recognized.
- 6.9 If at any time the Province ascertains that, due to negligence of the Contractor or for reasons beyond his control:
- 6.9.1 No work on the order has been commenced and in the opinion of the Province, there is little or no prospect of work being commenced in reasonable time;
- 6.9.2 Delivery of any materials is being or is likely to be delayed beyond the delivery date promised, and/or
- 6.9.3 There is little or no prospect of the order being completed within a reasonable time after the promised date; the Province may, by notice to the Contractor in writing, cancel as from the future date specified in such notice, the whole or any part of the order in respect of which material has not been delivered by that date without incurring any liability by reasons of such cancellation. The cases where circumstances beyond the control of the Contractor have delayed commencement or completion of the order, cancellation of the order will be effected by mutual arrangement or where this is not possible by the decision of the Province. The Contractor shall then as soon as possible after such date deliver to the Province that part of the order which has been completed, and payment is to be effected is for the part performance on a proportional basis, subject to the uncompleted part not being an integral or essential part of the contract.
- 6.10 Should a price other than an all-inclusive price be required, this shall be specified in the SCC.

## **7. CONSIGNMENT OF GOODS**

- 7.1 Goods, if delivered by Spoornet may be consigned carriage paid in the Contractor's name, care of the Province to the place of delivery stipulated, but not in the name of the State. Goods consigned to stores located in areas which Spoornet may refuse to deliver, must be done so care of a local agent or to a local depot from which they may be re-delivered by road to such stores.
- 7.2 Contractors shall arrange with Spoornet to deliver goods to the Province's stores during the hours and on the days that the stores are open.
- 7.3 The Province will not be responsible for any damage, re-delivery charges or any other charges raised by Spoornet.

- 7.4 Claims on the South African Transport Services or on any other carrier in respect of weight, quantity, damage or loss, shall be made by the Contractor.

## **8. PAYMENT**

- 8.1 The Contractor shall furnish the Province with an invoice accompanied by a copy of the delivery note upon fulfilment of other obligations stipulated in the contract.
- 8.2 Payments shall be made promptly by the Province, but in no case later than thirty days (30) days after submission of an invoice or claim by the Contractor.
- 8.3 Payments will be made in Rand unless otherwise stipulated.
- 8.4 Payments for goods are made by the Province only. Any disputes regarding late or delayed payments must be taken up with the department and if a problem persists, the Supply Chain Management Office can be requested to investigate the delays.

## **9. INVOICES**

All invoices submitted by the Contractor must be Tax Invoices indicating quantity ordered and quantity delivered, the amount of tax charged and the total invoice amount.

## **10. CONTRACT PRICE ADJUSTMENT**

- 10.1 Firm contract prices shall not be subject to adjustment. Contract prices which are not firm shall be increased or reduced by the amount of variation between the Cost to Bidder and the actual cost to the Contractor, such variations to be subject to the following conditions:-
- 10.1.1 Where the Cost to Bidder was based on a printed catalogue or list price, the variation shall be the difference between that price list and the price list actually charged. Should it transpire that the Cost to Bidder was not based on the latest available price list at the Date of Bid, the Province shall have the right to elect the price list on which any variation shall be based.
- 10.1.2 Where the Cost to Bidder was based on a quotation by the manufacturer, or where the Contractor is the manufacturer, and the Contract Price was based on the cost of materials and labour ruling at a certain date, the variation in the Contract Price shall be calculated by means of the Steel and Engineering Industries Federation of South Africa (SEIFSA) formula if this is stipulated in the Contract, or if the Province's representative considers it to be appropriate. Where the use of the SEIFSA formula is not appropriate, the variation shall be calculated by means of another formula acceptable to the Province, which shall be indicated in the Special Conditions of Contract. Only those cost increases due to wage increases prescribed by regulating measures having the force of law, or increases in the cost of materials and railage as may be proven by documentary evidence, or published data, will be considered in determining Contract Price variation.

- 10.1.3 Any difference between Rates and Charges ruling at the time of bid and those actually paid by the Contractor will be for the account of the Province. The Contract Price adjustment arising from any variation in Rates and Charges shall, in every instance, be applied to the appropriate value, or tonnage, of the Goods shipped. Where a variation in the Cost to bidder has been allowed, the contract price shall be adjusted by the product of such variation and every component of Rates and Charges which is based on the value of the Goods, whether or not the costs of such components have varied.
- 10.1.4 No claim for increased costs will be entertained if the Contractor is unable to produce documentation to substantiate Cost to Bidder and Rates and Charges on which the contract price was based and documentation to support his claim. Such documentation must, in the opinion of the Province, adequately support the Contractor's claim. No claim for increased costs to the Contractor arising from negligence on his part, or that of the manufacturer, will be considered.
- 10.1.5 The Contractor shall, in respect of every consignment or shipment of Goods delivered, supply to the Province's Representative documentary evidence of variation, if any, in Cost to Bidder and Rates and Charges.
- 10.1.6 Claims for increased cost shall be submitted with the invoice for the Goods in respect of which the claim is made, or as soon thereafter as possible. Claims shall not be considered if received more than 90 days after the expiry of the Contract unless notice of intention to claim has been given to the Province before such date.
- 10.1.7 In the event of there being no claim by the Contractor for increased costs, the Contractor shall not be entitled to full payment under the Contract before he has submitted to the Province, in his own name or in the name of the manufacturer, a certificate declaring that there have been no adjustments in the cost of manufacture which entitle the Employer to a reduction in the Contract Price as provided for in this clause.

## **11. REMEDIES IN THE CASE OF DEATH, SEQUESTRATION, LIQUIDATION OR JUDICIAL MANAGEMENT**

- 11.1 In the event of the death of a contractor or the provisional or final sequestration of his/her/their estate or of his/her/their cession or transfer of a contract without the approval of the Province or of the surrender of his/her/their estate or of his/her/their reaching a compromise with his/her/their creditors or of the provisional or final liquidation of a contractor's company/closed corporation or the placing of its affairs under judicial management, the Province may, without prejudice to any other rights it may have, exercise any of the following options :
  - 11.1.1 Cancel the contract and accept any of the bids which were submitted originally with that of the contractor or any offer subsequently received to complete the contract. In such a case the estate of the contractor shall not be relieved of liability for any claim which has arisen or may arise against the contractor in respect of supplies not delivered or work not carried out by the contractor, under the contract.
  - 11.1.2 Allow the executor, trustee, liquidator or judicial manager, as the case may be, for and on behalf of and at the cost and expense of the estate of the contractor to carry on with and complete the contract.

11.1.3 For and on behalf of and at the cost and expense of the estate of the contractor, itself carry on with and complete the contract and in that event the Province may take over and utilize, without payment, the contractor's tools, plant and materials in whole or in part until the completion of the contract.

11.2 Should the Province elect to act in terms of paragraph 11.1.3 it shall give notice of its requirements to the executor, trustee, liquidator or judicial manager of the contractor's estate and should the said executor, trustee, liquidator or judicial manager fail within 14 days of the dispatch of such notice to make provision to the satisfaction of the Province for the fulfillment of such requirements, or should no trustee, liquidator or judicial manager be appointed within 14 days of the occurrence mentioned in paragraph 11.1, the Province may apply any remedy open to it in terms of the contract as if a breach thereof had taken place.

11.3 Should the Province act in terms of paragraph 11.1.3 the contractor must leave the premises immediately and may not occupy such premises on account of retention or any other right.

## **12. LAW TO APPLY**

12.1 The Contract shall in all respects be construed in accordance with the law of the Republic of South Africa, and any difference that may arise with the law of the Republic of South Africa, and any difference that may arise between the Province and the Contractor in regard to the Contract, shall be settled in the Republic of South Africa.

## **13. OFFERING OF COMMISSION OR GRATUITY**

13.1 If the Contractor, or any person employed by him, is found to have either directly or indirectly offered, promised or given to any office bearer of the Province or person in the employ of the Province, any commission, gratuity, gift or other consideration, the Province shall have the right, summarily and without recourse to law and without prejudice to any other legal remedy which it may have in regard to any loss or additional cost or expenses, to cancel the Contract without paying any compensation to the Contractor.

## **14. PREFERENCES**

14.1 Should the Contractor apply for preferences in the submission of his bid, and it is found at a later stage that these applications were incorrect or made under false pretences, the Province may, at its own right:-

14.1.1 Recover from the Contractor all costs, losses or damages incurred or sustained by the Province as a result of the award of the Contract; and / or

14.1.2 Cancel the contract and claim any damages which the Province may suffer by having to make less favourable arrangements after such cancellation.

14.1.3 The Province may impose penalties, however, only if provision therefore is made in the Special Conditions of Bid.

## **15. WEIGHTS AND MEASURES**

15.1 The quantities of goods offered or delivered shall be according to South African standard weights and measures.

## **16. SECURITY**

16.1 Special Conditions of Contract relating to Surety/Guarantee requirement must be dealt with in strict compliance with the Conditions of Bid set out herein.

16.2 In respect of contracts less than R 500 000, the guarantees and sureties required may be based on a risk evaluation conducted by the Province inviting the bid.

16.3 No deposits are required for bid applications for contracts below R 500 000.

## **17. ORDERS**

17.1 Goods shall be delivered and services rendered only upon receipt of a written official order or the signing of a contract with the Province, and accounts shall be rendered as indicated on the official order or in the contract, as the case may be.

17.2 The Province reserves the right to call upon any Contractor during the contract period to make known the following details:

17.2.1 Name of Institution placing order;

17.2.2 Provincial official order number;

17.2.3 Quantity ordered; and

17.2.4 List of items ordered.

## **18. EXPORT LICENCES**

18.1 When orders are placed for goods in respect of which an export licence from the country of origin of supplies is required, the Contractor shall:

18.1.1 Not incur any direct or indirect costs in connection with the supply or dispatch of such supplies before he has obtained such licence;

18.1.2 If the government of the country from which the supplies are to be exported refuses, or fails to grant such licence within three months of the placing of the order, the order shall be considered to be cancelled and no liability will be accepted for any loss or expenses irrespective of the nature thereof, including loss or expenditure suffered or incurred by the Contractor or any other person in respect of the production, supply, transportation or delivery of such supplies.

## **19. INSURANCE**

19.1 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.

19.2 Any insurance policies taken out by a Contractor to cover goods delivered for a contract must be taken out with a company registered in South Africa in terms of relevant insurance and companies acts.

## **20. INSPECTION, TESTS AND ANALYSES**

20.1 In terms of Provincial policy, inspections of a Bidder's goods and services are permitted. Bidders and Contractors must allow reasonable access to premises to officials from the department inviting the bid, or person specially appointed by the Province to carry out inspection or tests. There are two main categories: Firstly, where the bid conditions call for goods to be inspected during the contract period. Secondly, where the inspection results are to be submitted with the bid document.

20.2 If it is a bid condition that goods to be produced should at any stage during production or on completion be subject to inspection, the premises of the Contractor shall be open, at all reasonable hours, for inspection by a representative of the Province or of an organization acting on its behalf.

- 20.3 Inspections tests and analyses may be carried out prior to dispatch in regard to such contract goods as may be deemed necessary by the Province, and the Contractor shall provide, if required, all the required facilities for the inspection, tests and analyses of the goods free of charge and shall, if required, provide all the materials, samples and labour and available apparatus which may be required for the purposes of such inspection, tests and analyses free of charge, unless otherwise specified.
- 20.4 If there are no inspection requirements in the bid documents and no mention thereof is made in the letter of acceptance, but during the contract it is decided that inspections shall be carried out, the Province shall itself make the necessary arrangements, including payment arrangements, with the testing authority concerned. The premises of the Bidder Contractor must be open and accessible at all reasonable times for the purposes of these tests.
- 20.5 If the inspection, tests and analyses show the goods or service to be in accordance with contract requirements, the cost of the inspection, tests and analyses shall be defrayed by the Province calling for such tests or analyses. Where the supplies or services do not comply with the contract, the costs shall be defrayed by the Contractor and the Province shall have the right, without prejudice to any other legal remedy it may have, to deduct such costs from payments due to the Contractor under the contract or under any other contract.
- 20.6 Goods and services which do not comply with the contract requirements may be rejected.
- 20.7 Any goods may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract, and such rejected goods shall be held at the cost and risk of the Contractor who shall, when called upon, remove them immediately at his own cost and forthwith substitute them for goods which do comply with the requirements of the contract, failing which such rejected goods shall be returned at the Contractor's cost and risk. Should the Contractor fail to provide the substitute goods forthwith, the Province may, without giving the Contractor a further opportunity to substitute the rejected goods, purchase such supplies as may be necessary at the expense of the Contractor, for example, the transport costs and other expenses regarding the rejected goods must be refunded by the Contractor.
- 20.8 Where imported goods are to be inspected before delivery, the Contractor shall notify his suppliers abroad of the conditions applicable to inspections.
- 20.9 Provisions contained in sub-clause 20.1 and 20.8 shall not prejudice the right of the Province to cancel the contract on account of a breach of the conditions thereof.

## **21. RESTRICTION OF BIDDING**

- 21.1 Without prejudice on any other legal remedies, the Province may impose restrictions on a Bidder in terms of which bids to the Province will not be accepted for such period as determined by the Province. This information may be passed to other provinces or State organisations in the Republic of South Africa. These restrictions may be imposed in terms of the breach of any of the requirements to be met in terms of the accepted bid or contract. The Province may also make a restriction on a bidder from another province or State institution applicable to this Province.

## **22. CONTRACTOR'S LIABILITY**

- 22.1 In the event of the contract being cancelled by the Province in the exercise of its rights in terms of these conditions, the Contractor shall be liable to pay to the Province any losses sustained and/ or additional costs or expenditure incurred as a result of such cancellation, and the Province shall have the right to recover such losses, damages or additional costs by means of set-off from moneys due or which may become due in terms of the contract or any other contract or from guarantee provided for the due fulfilment of the contract and, until such

time as the amount of such losses, damages or additional costs have been determined, to retain such moneys or guarantee or any deposit as security for any loss which the Province may suffer or may have suffered.

- 22.2 The Contractor may be held responsible for any consequential damages and loss sustained which may be caused by any defect, latent or otherwise, in supply or service rendered or if the goods or service as a result of such defect, latent or otherwise, does not conform to any condition or requirement of the contract.

## **23. PRICE LISTS**

Price lists which are part of the contract shall not be amended without the approval of the Province, unless the SCC specify otherwise.

## **24. SUBMISSION OF CLAIMS**

- 24.1 Claims must be submitted within 90 days of the delivery date of items, but the delivery date will be calculated according to the delivery period stipulated in terms of the contract, unless an extension for late delivery has been granted by the Province.
- 24.2 For period contracts, no price increase will be granted within the first 180 days of the contract period. No price increase applications which are submitted later than 90 days after the contract period expired will be considered. The claims shall be accompanied by documentary proof and, if required, an auditor's report sustaining the claim shall be provided.
- 24.3 Claims referring to formulae and indices must be clearly set out in terms of indices or formulae values used to calculate the bid price, and the adjusted indices or values.

## **25. PROVINCIAL PROPERTY IN POSSESSION OF A CONTRACTOR**

- 25.1 Province's property supplied to a Contractor for the execution of a contract remains the property of the Province and shall at all times be available for inspection by the Province or its representatives. Any such property in the possession of the Contractor on the completion of the contract shall, at the Contractor's expense, be returned to the Province forthwith.
- 25.2 The Contractor shall be responsible at all times for any loss or damages to the Province's property in his possession and, if required, he shall furnish such security for the payment of any such loss or damages as the Province may require.

## **26. RIGHTS TO PROCURE OUTSIDE THE CONTRACT**

- 26.1 The Province reserves the right to procure goods outside the contract in cases of urgency or emergency or if the quantities are too small to justify delivery costs, or if the goods are obtainable from another organ of Province or if the Contractor's point of supply is not situated at or near the place where the goods are required or if the Contractor's goods are not readily available.
- 26.2 No provision in a contract shall be deemed to prohibit the obtaining of goods or services from a Province or local authority.

## **27. AMENDMENT OF CONTRACT**

No agreement to amend or vary a contract or order or the conditions, stipulations or provisions thereof shall be valid and of any force and effect unless such agreement to amend or vary is entered into in writing and signed by the contracting parties. Any waiver of the requirement that the agreement to amend or vary shall be in writing.

## **28. NOTICES**

- 28.1 Every written acceptance of a bid shall be posted to the supplier/bidder concerned by registered or certified mail and any other notice to him/her/it shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him/her/it in writing and such posting shall be deemed to be proper service of such notice.
- 28.2 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 such notice.

## **29. INCIDENTAL SERVICES**

- 29.1 The Contractor may be required to provide any or all of the following services, including additional services, if any, specified in the Special Conditions of Bid:
- (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 Contractor of any warranty obligations under this contract; and
  - (e) training of the Province's personnel, at the Contractor's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.
- 29.2 Prices charged by the Contractor 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 Contractor for similar services.

## **30. USE OF CONTRACT DOCUMENTS AND INFORMATION INSPECTION**

- 30.1 The Contractor shall not, without the Province'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 Province in connection therewith, to any person other than a person employed by the Contractor 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.
- 30.2 The Contractor shall not, without the Province's prior written consent, make use of any document or information mentioned in GCC clause 30.1 except for purposes of performing the contract.
- 30.3 Any document, other than the contract itself mentioned in GCC clause 30.1 shall remain the property of the Province and shall be returned (all copies) to the Province on completion of the Contractor's performance under the contract or so required by the Province.
- 30.4 The Contractor shall permit the Province to inspect the Contractor's records relating to the performance of the Contractor and to have them audited by auditors appointed by the Province, if so required by the Province.

## **31. SPARE PARTS**

- 31.1 If specified in SCC, the Contractor may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the Contractor:



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

### **32. PENALTIES**

- 32.1 Subject to GCC Clause 4, if the Contractor fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the Province 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 delayed goods or unperformed services, using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The Province may also consider termination of the contract in terms of the GCC.

### **33. ANTI-DUMPING AND COUNTERVAILING DUTIES AND RIGHTS**

- 33.1 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 favorable 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.

### **34. GOVERNING LANGUAGE**

- 34.1 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.

### **35. TAXES AND DUTIES**

- 35.1 A foreign Contractor shall be entirely responsible for all taxes, stamp duties, licence fees, and other such levies imposed outside the Province's country.
- 35.2 A local Contractor shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the Province.
- 35.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Province 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.



## **PART C**

### **TERMS OF REFERENCE**

#### **APPOINTMENT OF A SERVICE PROVIDER TO OVERSEE THE IMPLEMENTATION OF FOUR (04) AGRI-HUBS IN KWAZULU NATAL PROVINCE**

##### **1. BACKGROUND**

- 1.1. The Kwa-Zulu Natal Department of Agriculture and Rural Development (KZNDARD) was tasked by The Executive Council to conduct a feasibility study and implement four (4) Agri-hub models in the KZN Province. In the State of the Province Address, honourable Premier further committed to implement Agri-Hubs in 2020/2 Financial Years.
- 1.2. The Department took a decision to roll-out the implementation of Agri-Hubs in four strategically located districts of the province. The physical location of the agri-hubs and clustering of the districts will be based but not limited to the following:
  - 1.2.1. Well-defined value chains,
  - 1.2.2. Availability of minimal infrastructure such as Farmer Support Units (FPSUs)
  - 1.2.3. Availability of markets (private and government),
  - 1.2.4. They should have baseline information such as Agri-Parks District Master Business Plans and others,
  - 1.2.5. The district should be within access to corridors,
  - 1.2.6. Availability of suitable land,
  - 1.2.7. Availability of the production support infrastructure
  - 1.2.8. Natural resources compatibility,
- 1.3. Agri-Hubs act as catalyst for rural economic development and agricultural industrialisation, thus promoting development and growth of the agricultural sector in the province. This will ultimately improve lives, food security and job creation in the rural space.
- 1.4. KZNDARD seeks to appoint a suitable service provider to conduct a feasibility study, design, develop and oversee the implementation of four (04) Agri-Hubs in Kwa-Zulu Natal Province. The service provider is also expected to facilitate the sourcing of suitable SMMEs and Agri-businesses to be Agri-hub tenants.

## **2. OBJECTIVES**

- 2.1. The overall objective of the department is to appoint a suitably qualified and experienced Service Provider to oversee the establishment of four Agri-Hubs in the Province of KwaZulu-Natal. The specific objectives are:
- 2.1.1. Feasibility study,
  - 2.1.2. Development of agri-hub business model,
  - 2.1.3. Agri-hub planning,
  - 2.1.4. Identification of sites,
  - 2.1.5. Development of professional, architectural drawing including provision of BoQ,
  - 2.1.6. Development of bankable business plans for each Agri-Hub,
  - 2.1.7. Assist the department to mobilize financial resources for the establishment of the agri-hubs,
  - 2.1.8. Follow the departmental guideline to source qualifying tenants for the agri-hubs,
  - 2.1.9. Oversee the construction of agri-hubs.

## **3. SCOPE OF WORK**

### **PHASE 1: Inception Phase**

- 3.1. The outcome of this phase is an Inception Report, which will contain a more detailed project plan, elaboration on aspects of the methodology and some project pre-feasibility aspects. This must also involve setting up of consultative structures and an outline of the public participation and consultation processes with various stakeholders. This must be presented at the first Project Steering Committee (PSC) meeting for consideration and approval.

### **PHASE 2: Desktop Review, Environmental Scanning and Project Artistic**

#### **Impression of Agri-Hub**

- 3.2. Feasibility Study, Comprehensive Business Case with costing, Business Model, and Artistic Impression Agri-Hub.
- 3.3. Mapping of commodities per hub
- 3.4. Comparisons on best practises on the design and implementation of Agri-hubs outside and within RSA.
- 3.5. Four (4) recommended sites

### **PHASE 3: Status Quo /Site Assessments**

3.6. The outcome of this phase is a professional recommendation of Agri-hubs sites.

This should be based but not limited to the analysis of:

- a) Topographical Survey;
- b) Wetland survey within 500m of the site;
- c) Environmental Screening and Heritage Impact Assessment (Environmental and Water Use License requirements),
- d) Town Planning considerations in terms of the Spatial Planning and Land Use Management Act, 2013;
- e) Geotechnical Investigation (If required);
- f) Social Facilitation: Project Communication
- g) Site Specific Agri-Hub Designs.
- h) The role of the study area, particularly its economic role -regional and local – and challenges/opportunities for investment, employment etc.
- i) Local economic analysis of business environment and types of businesses in the community, particularly prevalent among youth, women, and disabled
- j) Surrounding land uses and linkages to surrounding areas/nodes
- k) Movement and circulation patterns including pedestrian facilities / pedestrian safety
- l) Public space and landscaping
- m) Analysis of basic infrastructure network requirements – including any capacity constraints

**NB:** The successful bidder will have to liaise with the responsible authorities to determine and obtain any approvals necessary for the project. Should there be a need for Planning Approval, the Professional Team will be responsible for packaging the application as per the requirements and hand over to the Municipality to undertake the internal processes towards approval. The draft concept designs will have to be presented to the PSC for discussion and further amendments where necessary. The Final Agri-Hub Designs should be presented to the PSC for approval.

### **Phase 4: Business Planning Phase**

- n) Prepare detailed construction estimates
- o) Develop bankable business plan per Agri-hub
- p) NB: The business plan will have to be presented to the PSC for approval.
- q) Resource mobilization

- r) Prepare tender documents for appointment of a contractor(s) for Agri-Hub construction including any other professional service providers needed during the construction phase.

#### **Phase 5: Oversee Construction of FOUR Agri-Hubs**

- 3.7. During this phase the competent service provider is expected to oversee the construction of the FOUR Agri-Hubs and report back to the PSC. The service provider will be required to prepare monthly reports on work progress until the project conclusion and prepare for handover and close out report.

#### **PHASE 6: Sourcing of Tenants for Agri-Hubs**

- 3.8. During this phase, the service provider is expected to source the tenants for the Agri- Hubs. The service provider should obtain expression of interests from qualifying SMMEs and Agribusinesses that will operate various businesses within the Agri-Hubs. The outcome of this process and selection report must be presented to the PSC for approval.

### **4. TIME FRAMES**

- 4.1. The duration for this assignment is 60 months. The appointed service provider must ensure adequate management of Implementation of FOUR Agri-Hubs over the contract period.
- 4.1.1. A service provider who qualify will be required to sign a Service Level Agreement (SLA).

### **5. DELIVERABLES**

- 5.1. INCEPTION REPORT - One (1) month
- 5.2. FEASIBILITY REPORT - Five (5) months
- 5.3. SITE ASSESSMENT REPORT - Eight (8) months
- 5.4. DETAILED SPECIFICATIONS AND DESIGNS - Five (5) months
- 5.5. BANKABLE BUSINESS PLAN AND RESOURCES - Five (5) months
- 5.6. COMPLETED AGRI-HUB MEETING ALL COMPLIANCE STANDARDS - Thirty-Two (32) months
- 5.7. OCCUPANCY OF THE AGRI-HUBS - Four (4) months

## 6. MODUS OPERANDI FOR THE EVALUATION

- 6.1. Evaluation and appointment will be for a Principal Agent(LC), who will assemble team, develop, design and oversee the actual implementation of FOUR Agri-Hubs in the province.
- 6.2. Approval of the members of the proposed team is at the Department's discretion and will be done on the basis of submitted CV's and the evaluation of methodology as presented by the LC.
- 6.3. The LC is a company well vest with the agricultural environment, strategies, value chain, process, policies, and systems. Further, be capable of developing a lucid business cases and business planning processes.
- 6.4. The LC will receive a standard fee agreed during contracting phase. All payments will be based on milestones and reports presented to the PSC.
- 6.5. During the course of the implementation. specialists will claim hourly professional fees as per gazetted guidelines for their profession. On top of this they will claim transport costs as per published DoT fuel rates for the month, as well as disbursements for accommodation and other expenditure.

## 7. REMUNERATION

- 7.1. This contract will be indexed against the relevant CPI indicators, unless the professional fees already clearly show an indexation on a year to year basis in the bid table.
- 7.2. Remuneration of the project will be based on lump sum and will remain unchanged for the duration of the commission.
- 7.3. The implementing agent is to allocate an approximate budget to each activity in the activity schedule. The budget allocated to each activity and the total of prices for the activities shall not exceed total price (of activity or lump sum) without the written agreement of the Client.
- 7.4. Remuneration will be paid at the end of each phase as per percentage stipulated below:

Stage of Services	Typical percentage points for each stage
<b>Phase 1: Inception Phase</b> <ul style="list-style-type: none"><li>Detailed Project Programme</li><li>Inception Report</li></ul>	3% of Lump sum 5% of Lump sum
<b>Phase 2: Desktop Review, Environmental Scanning and Project Artistic Impression of Agri-Hub Phase.</b> <ul style="list-style-type: none"><li>Feasibility Study Report</li></ul>	10% of Lump sum

<ul style="list-style-type: none"> <li>Comprehensive Business Case with costing &amp; Business Model Report</li> <li>Assimilation Agri-Hub Presentation</li> </ul>	10% of Lump sum  2% of Lump sum
<b>Phase 3: Status Quo/Site assessments Phase</b> <ul style="list-style-type: none"> <li>Topographical &amp; Wetland Survey</li> <li>Environmental Screening &amp; Heritage Impact Assessment (EIA &amp; Water License requirements)</li> <li>Social Facilitation Report</li> <li>Site Specific Agri-Hub Designs (including Geotech, town planning)</li> <li>Local Economic Analysis (Including infrastructure, public space &amp; landscaping, challenges and opportunities for investment)</li> </ul>	3% of Lump sum 3% of Lump sum  3% of Lump sum 10% of Lump sum  5% of Lump sum
<b>Phase 4: Business Planning Phase</b> <ul style="list-style-type: none"> <li>Development of Bankable Business Plan per Agri-Hub (Including construction cost estimates)</li> <li>Tender document for appointment of service providers</li> <li>Presentation of business plan to PSC (Business Plan must be approved)</li> </ul>	10% of Lump sum  5% of Lump sum  2% of Lump sum
<b>Phase 5: Oversee Construction of Agri-hubs Phase.</b> <ul style="list-style-type: none"> <li>Monitoring and Supervision of construction phase of all implemented Agri-Hubs.</li> <li>Progress Report</li> <li>Hand over and Closeout report</li> </ul>	10% of Lump sum  3% of Lump sum 3% of Lump sum
<b>Phase 6: Sourcing of Tenants for Agri-Hubs Phase.</b> <ul style="list-style-type: none"> <li>Facilitation of partnership</li> <li>Closeout Presentation to PSC</li> </ul>	5% of Lump sum 3% of Lump sum
<b>Contingencies</b>	5% of Lump sum
<b>100 % of Lump sum</b>	

## 8. CONTINGENCIES

- 8.1. The implementing agent should allow contingencies which does not excised 5% of total lump sum. The contingency allocated shall only be utilised in agreement and after written approval of the Client. These contingency must form part of lump sum.

## **9. TRAVEL COSTS**

- 9.1. Reimbursements in accordance with the prevailing tariffs laid down by National Department of Transport will be made in respect of travel costs.
- 9.2. Please note that travelling costs may only be claimed when the site of the Works is beyond a 25 km kilometres radius from your place of practice or when, for official purpose, the return trip exceeds 50 kilometres.
- 9.3. The implanting agent will only be allowed to claim using vehicle of engine capacity which does **not exceed 2.5 litres (Engine Category C)**. The traveling costs should be included in each activities requiring travelling.

## **10. APPROACH AND METHODOLOGY**

- 10.1. The approach and methodology should detail the bidder/s understanding of the scope of work. The bidder's proposal should also include risk management plan and any other matters that might affect the achievement of the assignment.
- 10.2. The shortlisted bidders will be required to prepare a detailed proposal and present such to the bid evaluation committee.

## **11. DURATION AND REVIEW OF THE CONTRACT**

- 11.1. The duration of this contract is for a period not exceeding 60 months based on deliverables.
- 11.2. Service provider will be required to sign a Service Level Agreement (SLA)

## **12. EXPERT/SPECIALIST PERSONNEL**

### **12.1. Profile of Technical Team – Knowledge base**

- 12.1.1. Principal Agent is required to oversee all aspects of FOUR Agri-Hubs establishment, working closely with engineers and architects to develop plans, establish timetables, and determine labor and material costs. The service provider will be responsible for ensuring that FOUR Agri-Hubs are completed on budget and within scope.

The Technical team should be composed of experts/specialists who have proven knowledge of:

- 12.1.2. Strong understanding of Agri-Hub and Agri-Park Concepts,
- 12.1.3. The South African and KwaZulu-Natal economy and its socio-economic issues,
- 12.1.4. Economic sectors/sub-sectors and/or agriculture/agribusiness value chains,
- 12.1.5. Government economic policy and strategy particularly with regards regional and local economic development,



- 12.1.6. Urban/Rural development and/or urban/rural economic development projects,
- 12.1.7. Issues related to business entities or social enterprises, and especially SMME's
- 12.1.8. Evaluation of project and/or programme design,
- 12.1.9. Research Skills
- 12.1.10. Agricultural Sector Intelligence
- 12.1.11. Markets and Trade
- 12.1.12. Finance and deal structuring
- 12.1.13. Report Writing
- 12.1.14. Presentation
- 12.1.15. Communication and research facilitation
- 12.1.16. Computer Literacy Skills

The proposed team must demonstrate or have proven experience in managing and/or being involved with work of a similar nature.

## **12.2. Profile of Technical Team – Registration with professional bodies**

- 12.2.1. Team members should be registered with the regulatory bodies of their profession.
- 12.2.2. Absence of such registration could be compensated for by ample proven experience.

## **12.3. Experts to be bound to Five (5) year contract**

- 12.3.1. Concise CV with qualifications, experience and competency in relation to achieving the respective projects and associated activities of the work plan, together with traceable references of the nominated individuals must be provided in the required format as per **Annexure 1**.
- 12.3.2. All members of the team will be required to sign statements of availability as per **Annexure 2**, with each request for a quotation.

## **13. PRINCIPAL AGENT**

- 13.1. A full and complete company profile/resume must be provided for the bidder/s and/or joint venture partners inclusive of at least 3 reference letters. This must include a full project listing and description of projects managed by the bidder/s. It should also include value of each of the projects as well as a listing of associated clients and their contact details as per table below:

Description of projects	Client	Contact person and Number	Contract Value	Contract period

13.2. The evaluation of the above aspects will enable an assessment of the bidders' experience in the management of similar programmes and/or projects, their ability and capacity to manage a project of this nature, and whether any potential conflict of interest exists.

#### 14. OFFICE ACCOMMODATION

14.1. Office accommodation will be provided by service provider themselves for the project team. The Principal Agent shall ensure that the Technical Team is adequately supported and equipped. In particular, they shall ensure that there is sufficient administrative and secretarial support to enable them to concentrate on their primary responsibilities.

#### 15. SELECTION CRITERIA

15.1. The selection of the service provider will be subject to the prequalification criteria, administrative and technical compliance.

15.2. The department reserves the right to appoint a qualified and experienced service provider to oversee the establishment of FOUR Agri-Hubs

15.2.1. The selection of suitable service provider will be undertaken on the following basis:

15.2.2. (1) Compliance check

15.2.3. (2) Shortlisting of the most promising proposals on the basis of functionality criteria listed under **Bid evaluation criteria**.

15.2.4. (3) Selection of the qualified bidders

15.2.5. (4) Presentation of the qualified bidders

15.2.6. Award of the contract to the bidder that combines the most promising methodology/modus operandi with a favourable bid price.

15.2.7. Price will only be taken into account in the evaluation of bids / quotations for specific engagements as contemplated above.

## ANNEXURE 1 CURRICULUM VITAE

### CURRICULUM VITAE (max 3 pages) - proposed role in the project:

1. Family name:
2. First name:
3. Date of birth:
4. Nationality:
5. Civil status:
6. Education:

Institution [Date from-Date to]	Degree(s) of Diploma(s) obtained

Language skills: indicate competence on a scale of 1 to 5 (1 excellent; 5 basic)

Language	Reading	Speaking	Writing
English			
Zulu			

- 1) Membership of professional bodies:
- 2) Other skills: (e.g. Computer literacy, etc)
- 3) Present position:
- 4) Years within the firm:
- 5) Key qualifications: (Relevant to the project)
- 6) Professional Experience

Date from- date to	Location	Company	Position	Description of projects/ responsibilities etc

- 1) Other relevant information (e.g. Publications)

## **PART D**

### **SPECIAL TERMS & CONDITIONS**

#### **APPOINTMENT OF A SERVICE PROVIDER TO OVERSEE THE IMPLEMENTATION OF FOUR (04) AGRI-HUBS IN KWAZULU NATAL PROVINCE**

##### **1. INTRODUCTION**

- 1.1. Bidders must ensure that they are fully aware of all the Terms and Conditions contained in this bid document. Only bidders that fully meet the prequalification shall be considered.
- 1.2. The Bidder is required to check the number of consecutively numbered pages and should any found to be missing or in duplicate, or the text of figures indistinct, or should there be any doubt or obscurity as to the meaning of any part of these documents, the Bidder must ascertain the true meaning or intent of the same prior to the submission of his/her Bid, as no claims arising from any incorrect interpretation will be admitted.

##### **2. ACCEPTANCE OF BID**

- 2.1. The Departmental Bid Adjudication Committee (BAC) is under no obligation to accept any bid.

##### **3. AMENDMENT OF CONTRACT**

- 3.1. Any amendment to or renunciation of the provisions of the contract shall at all times be done in writing and shall be signed by both parties, subject to the Departmental Bid Adjudication Committee approval.

##### **4. AWARD**

- 4.1. Bidders who meet the prequalification shall be scored on functionality and only bidders with a minimum score of 80 points shall be evaluated on a presentation to BAC.
- 4.2. The total scored on functionality will be added with a total scored on presentation.
- 4.3. A bidder who will score the highest point will be recommended.

##### **5. BBBEE CERTIFICATE / SWORN AFFIDAVIT**

- 5.1 A bidder must submit a valid BBBEE certificate or a sworn affidavit together with the bid for pre-qualification purposes and for claiming BBBEE points.

## **6. CHANGE OF ADDRESS**

- 6.1. Bidders must advise the Departmental Supply Chain Management, Contract Administration should their ownership or address (*domicilium citandie te xecutandi*) details change from the time of bidding to the expiry of the contract.

## **7. COMPETENCY OF THE SERVICE PROVIDER**

- 7.1. It is essential that the work shall be carried out by fully competent personnel with proven experience in Agriculture or Development studies. It will therefore be necessary for the appointed Company to have personnel that understand the fundamentals and complexity of agricultural project investigations. Bidders with no previous experience will not be considered. Refer to Annexure A for the functionality and expertise required.

## **8. COMPULSORY SITE BRIEFING**

- 8.1. A compulsory site-briefing meeting will be held with prospective Bidders. Attendance at the meeting will be compulsory and non-attendance shall invalidate any bid. The date and time of the meeting are as follows:

**Date: Thursday, 16 July 2020**

**Time: 10h00**

**Venue: Auditorium, Cedara**

## **9. COUNTER OFFERS**

- 9.1. None

## **10. DETAILS OF PAST OR CURRENT AGRICULTURE OR DEVELOPMENT STUDIES PROJECT ANALYSIS AND EVALUATION CONTRACTS AWARDED TO THE BIDDER (ANNEXURE C)**

- 10.1. The bidder must furnish the following details of all verifiable past and current contracts.
- 10.1.1. Date of commencement of contract/s;
- 10.1.2. Value per contract; and
- 10.1.3. Contract details, that is with whom held, phone number and Address/s of the companies.

## **11. ENTERING OF DEPARTMENTAL OFFICES**

- 11.1. No representative from a company shall be permitted to enter Departmental premises, buildings or containers where stores are kept unless he/she is accompanied by the responsible official in charge of stores.

## **12. EQUAL BIDS**

- 12.1. If functionality is part of the evaluation process and two or more bidders score equal total points and equal preference points for BBBEE, the contract must be awarded to the bidder that scored the highest points for functionality.
- 12.2. If two or more bidders score equal total points in all respects, the award shall be decided by the drawing of lots.

## **13. INVOICES**

- 13.1. All invoices submitted by the Service Provider must be Tax Invoices indicating quantity ordered and quantity delivered, the amount of tax charged and the total invoice amount.
- 13.2. A tax invoice shall be in the currency of the Republic of South Africa and shall contain the following particulars:
- 13.2.1. The name, address and registration number of the supplier;
- 13.2.2. The name and address of the recipient;
- 13.2.3. An individual serialized number and the date upon which the tax invoice is issued;
- 13.2.4. A description of the goods or services supplied;
- 13.2.5. The quantity or volume of the goods or services supplied;
- 13.2.6. The value of the supply, the amount of tax charged and the consideration for the supply; or
- 13.2.7. Where the amount of tax charged is calculated by applying the tax fraction to the consideration for the supply and either the amount of the tax charged, or a statement that it includes a charge in respect of the tax and the rate at which the tax was charged.

## **14. IRREGULARITIES**

- 14.1. Companies are encouraged to advise the Department timeously of any possible irregularities which might come to their notice in connection with this or other contracts.

## **15. JOINT VENTURES**

- 15.1. In terms of the Preferential Procurement Regulations, 2017 pertaining to the Preferential Procurement Policy Framework Act 5 of 2000, a trust, consortium or joint venture must submit a consolidated BBBEE Status Level Verification Certificate for every separate bid.
- 15.2. Should this bid be submitted by a joint venture, the joint venture agreement must accompany the bid document before the closing date and time of bid. The joint venture agreement must clearly specify the percentage of the contract to be undertaken by each company participating therein.
- 15.3. The non-submission of a BBBEE Certificate by a trust, consortium or joint venture shall result in zero (0) preference points being allocated for evaluation purposes.
- 15.4. Each party to a Joint Venture/ Consortium must submit an original valid Tax Clearance Certificate together with the bid before the closing date and time of bid.
- 15.5. The joint venture or consortium must submit a formal agreement that outlines the roles and responsibilities of each member of the joint venture or consortium, nomination of an authorized person to represent the joint venture or consortium in all matters relating to this bid and the details of the bank account for payments to be effected.
- 15.6. The joint venture or consortium must comply with Central Suppliers Database (CSD) registration requirements as per National Treasury directive.

## **16. LATE BIDS**

- 16.1. Bids are late if they are received at the address indicated in the bid documents after the closing date and time.
- 16.2. A late bid shall not be considered and, where practical, shall be returned unopened to the Bidder, accompanied by an explanation.

## **17. NOTIFICATION OF AWARD OF BID**

- 17.1. The successful bidder shall be notified via an advert in the same media as the invitation to tender.

## **18. PAYMENT FOR SUPPLIES AND SERVICES**

- 18.1. The service provider shall be paid by the Department in accordance with the activities enlisted in the approved financial proposal.
- 18.2. Should the service provider indicate a special discount on his/her account provided payment is made within a certain time, the Department shall make every effort to take advantage of such discount.

- 18.3. Any query concerning the non-payment of accounts must be directed to the Department. The following protocol shall apply if accounts are queried:
- 18.3.1. Contact must be made with the officer-in-charge of the District Office;
- 18.3.2. If there is no response from the District Office, the Director: Finance must be contacted;
- 18.4. Information as contained on the Central Suppliers Database must be valid/correct. Noncompliance with Tax Requirements shall affect payment.

## **19. PERIOD OF CONTRACT**

- 19.1. The contract period is 60 months.

## **20. PRE-QUALIFICATION CRITERIA**

- 20.1. Only bidders who meet both of the following prequalification criteria may respond:-
- 20.1.1. BBBEE level 1 (as per the provisions of section 4(1)(a) of the PPPFA Regulations, 2017); and**
- 20.1.2. EME or QSE (as per the provisions of section 4(1)(b) of the PPPFA Regulations, 2017)**
- 20.2. Bidders must submit documentary proof of compliance with the above prequalification criteria.
- 20.3. Bidders who fail to comply with the above-stipulated prequalification criteria or fail to submit documentary proof of the compliance with the prequalification criteria shall not be considered for this bid.

## **21. QUALITY CONTROL/ TESTING OF PRODUCTS**

- 21.1. The Department reserves the right to inspect and verify the quality of project evaluated and analyzed as stipulated in the proposal. The Department also reserves the right to assess the quality of reports submitted by the service provider. Should the Department feel that the quality is not in accordance with its standards the service provider shall resubmit and ensure that the submitted documentation is of the required standard.
- 21.2. In the case of sustained or repeated non-adherence to the specifications of the materials and/or equipment, as well as in the case of general negligence during the implementation process, the contract may be cancelled. The Department will in such cases seek compensation from the contractor for the estimated costs for completion.



- 21.3. In cases of deliberate negligence or unwillingness to adhere to the Departmental specifications, the Service provider will be reported to the Provincial and/or National Treasury for listing on the Restricted section of the Central Suppliers database.

## **22. ORDER OF PRECEDENCE**

- 22.1. This invitation to bid/quote is issued in accordance with the provisions of the Public Finance Management Act (PFMA), Chapter 16 A of the Treasury Regulations and shall be subject to the provisions of the National Treasury Government Procurement General Conditions of Contract (July 2010). The Special Terms and Conditions are supplementary to that of the General Conditions of Contract. Where, however, the special terms and conditions are in conflict with the General Conditions of Contract, the Special Terms and Conditions shall prevail.

## **23. SUPPLIERS DATABASE REGISTRATION**

- 23.1. A bidder submitting an offer must be registered on the Central Suppliers Database at National Treasury. A bidder who has submitted an offer and is not registered on the Central Suppliers Database shall not be considered at the time of award. No pending registrations shall be considered.
- 23.2. A Joint Venture/Consortium must be registered on the Central Suppliers Database at the time of submitting the bid.

**NB: If a bidder is found to be employed by the State and is on the Central Suppliers database, the bidder shall be disqualified.**

## **24. TAX AND DUTIES**

- 24.1. During quotation stage, prices offered and paid must include all customs, excise and import duties, and any other tariffs or taxes levied by the government or statutory body having jurisdiction on the goods provided under this contract, including Value Added Tax (applicable at the current rate).

## **25. TAX COMPLIANCE PIN**

- 25.1. The bidder must submit a valid Tax Compliance Pin with the bid. Bidders should note that their tax compliance status shall be verified through the Central Supplier Database and SARS.
- 25.2. Where a Tax Compliance Pin is not submitted with the bid, the Department shall use the Central Supplier Database to verify the tax matters of the bidder.

## **26. UNSATISFACTORY PERFORMANCE**

- 26.1. Unsatisfactory performance occurs when performance is not in accordance with the contract conditions.
- 26.2. The Departmental official shall warn the service provider in writing that action shall be taken in accordance with the contract conditions unless the contractor complies with the contract conditions and delivers satisfactory supplies or services within a specified reasonable time (7 days minimum).
- 26.3. If the service provider fails to commence the Works or to proceed with and complete the Works in compliance with the projected timeframes, the Head of Department or his/her representative shall take action in terms of its his/her delegated powers and adopt and exercise one of the following courses wholly or partly, viz: -
  - 26.3.1. To direct the Service provider, in writing, on any day named therein to suspend and discontinue the execution of the Works, and to withdraw himself and his workmen from the said Site or Sites,
  - 26.3.2. To make a recommendation to the Accounting Officer for cancellation of the contract concerned.
  - 26.3.3. To Contract or Contracts by calling for Bids or otherwise with any other Service provider(s) for the completion of the Works, or any part thereof, at such times and upon such terms as to the Department shall deem best.
- 26.4. In relation to the foregoing provisions the Department shall charge any sums of money which may be paid by the Department for completing the said Contract against the Service provider and if such amount shall exceed this Contract, then the Department shall have the right to recover such excess or any balance thereof from the Service provider by legal proceedings.
- 26.5. When correspondence is addressed to the service provider, reference shall be made to the contract number/item number/s and an explanation of the complaint.

## **27. VALIDITY PERIOD OF BID AND EXTENSION THEREOF**

- 27.1. The validity (binding) period for the bid shall be 120 days from close of bid. However, circumstances may arise whereby the Department will request bidders to extend the validity (binding) period. Should this occur, the Department shall request bidders to extend the validity (binding) period under the same terms and conditions as originally offered for by bidders. This request shall be done before the expiry of the original validity (binding) period.

## **28. VALUE ADDED TAX (VAT)**

- 28.1. Bid prices must be inclusive of 15% VAT.
- 28.2. Bidders who make taxable supplies in excess of R1 million in any 12-month consecutive period are liable for compulsory VAT registration, but a person may also choose to register voluntarily provided that the minimum threshold of R50 000 (as of 1 March 2010) has been exceeded in the past 12-month period. Bidders who meet the above requirement must register as VAT vendors, if successful, within one month of award of the bid.
- 28.3. For the purposes of calculating preference points, VAT shall not be considered during quotation process.

## **29. SERVICE LEVEL AGREEMENT**

- 29.1. The successful Bidder and the Department will sign a Service Level Agreement prior to commencement of works. A proposed schedule of works must be provided by the service provider for the approval of the Departmental Appointed Official within two weeks of receiving notification of a successful bid.
- 29.2. The Terms of Reference (TOR) for the Direct Funding and High Impact projects analysis as well as the technical and financial proposals submitted by the service provider shall form part of the SLA.

## **30. COMMENCEMENT OF THE WORK**

- 30.1. Site reconnaissance and desktop analysis must start within two (2) weeks after official appointment, provided that.
  - 30.1.1. An official order has been issued;
  - 30.1.2. The service provider is in possession of all relevant documentation required for works execution;
  - 30.1.3. No exceptional circumstances such as inclement weather or other outside the control of either party to the contract prevail.
- 30.2. In case work has not commenced within two (2) weeks of the appointment and no attenuating circumstances for the delay can be provided, the Department reserves itself the right to cancel the contract

## **31. HANDOVER OF SITE TO CONSULTANT**

- 31.1. The Department will organize a site hand-over to the Service Provider who will then be introduced to the project stakeholders and participants.

## **32. LABOUR SOURCE & CAPACITY**

- 32.1. The Service Provider will be required to satisfy the Department that a sufficient and experienced labor force is employed or that sufficient experienced labour can be acquired to complete the services and produce an acceptable quality of workmanship.
- 32.2. The Service Provider is encouraged to source unskilled labour from the project participants or local community. The Service Providers and the Departmental representative (Departmental Appointed Official) may negotiate with the participants in this regard to establish all the conditions for the utilization of the local labour.
- 32.3. The Service Providers will be responsible for all hiring, payment, housing and transport of all labour used for the duration of the contract.

## **33. SECURITY & RISK**

- 33.1. The Service Provider shall also be responsible for safeguarding all their equipment and materials on site. The department shall not be responsible for any lost, damaged or stolen property or materials. Should any of these situations arise; no allocations will be made in terms of finances or time.

## **34. INSPECTION OF WORK**

- 34.1. The Departmental representative may at all reasonable times have access to the site where work is being executed for inspection purposes.
- 34.2. The Departmental representative shall request that evidence of all the tests that were conducted i.e. laboratory test results

## **35. SUB-CONTRACTED WORK**

- 35.1. The contractor shall not sub-contract the entire contract.
- 35.2. However, local suppliers and emerging contractors should be considered provided they are capable.
- 35.3. The contractor must sub- contract 30% of the total value of the contract to the following designated group as per PPPFA Regulation 2017.
- 35.4. Central Supplier Database(CSD) has the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned from which the tenderer must select a supplier(s).

## **36. INSURANCE**

36.1. All accepted approved contractors would be required to provide the following insurance's for the project awarded to them:

36.1.1. Insurance against damage, destruction or loss to 50% of the value of the contract.

36.1.2. Public Liability insurance.

36.1.3. All risks (works) policy and Political.

## **37. PROTECTION OF THE PUBLIC**

37.1. The Service Provider shall be responsible for the protection of the public in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993). The Contractor shall pay particular attention to watching and warning lighting and must provide any necessary barriers, etc., required for the protection of the public in terms of the Act.

## **38. INJURY TO PERSONS**

38.1. The Service Provider shall be liable for and shall indemnify the department in respect of any liability, loss, claim or proceedings whatsoever, whether arising in Common Law or by Statute in respect of personal injuries to or death of any person whomsoever arising out of or in the course of or caused by the execution of the Works.

## **39. DISAGREEMENTS**

39.1. Notice of disagreement. The Service Provider has the right by written notice to the Departmental representative to require him to consider any disagreement which he raises with the Departmental representative provided the said written notice shall be given within 14 days after the cause of disagreement has arisen.

39.2. Ruling on disagreements. The Departmental representative shall give a ruling on the disagreement in writing to the Service Provider no later than 14 days after his receipt of a written request from the Contractor requiring him to do so. The Departmental representative shall provide such a ruling with as little delay as possible. During the response time the Service Provider shall not alter the status of the works under contention.

## **40. FIXED PRICE CONTRACT**

40.1. The contract shall be subject to contract price adjustment.

## **41. QUANTITIES OF WORK**

- 41.1. The Service Provider shall receive payment only for the works actually executed and approved by the Departmental Appointed Official. The works should be detailed in the financial and technical report.

## **42. PROGRESS PAYMENTS**

- 42.1. Payment shall only be made for claims that are commensurate with the works actually executed and complete.
- 42.2. If any item or part of an item in an invoice is disputed by the Departmental Appointed Official shall give notice of such with reasons.
- 42.3. The Departmental Appointed Official may elect to use a payment schedule that apportions a weighting for the various work phases, in those cases where the actual pricing schedule is not available or lacks balance.
- 42.4. The Service Provider shall be paid in up to a minimum of seven part payments. The Service Provider is strongly advised to request at least five payments when being notified of him/her being awarded the contract.
- 42.5. Part payments will be made after the Departmental Appointed Official has approved the work and will be made in accordance with the Retention clause (57).
- 42.6. The penultimate payment occurs after practical works completion. The final payment will be made after the Monitoring and Evaluation and Direct Funding and High Impact Project report and all the required documentation as per the terms of reference have been approved by the departmental appointed official.

## **43. COMPLETION OF THE WORK**

- 43.1. The work shall be considered complete within thirty-six (36) months.

## **44. PENALTY CLAUSE / FINES FOR LATE OR NON-COMPLETION**

- 44.1. If the Service Provider does not complete the work within the time stipulated and no extenuating circumstances can be given for the delay, the Department may impose a fine as detailed below. The total will be subtracted from the retention allowance.
- 44.2. If the Service Provider fails to complete the works and the Department is forced to employ another Service Provider to complete the works, the defaulting contractor will be held liable for the costs as far they exceed the original total Bid value.

## **PART E**

### **BID EVALUATION CRITERIA**

**1. All bids received shall be evaluated on the following:**

- 1.1 Only bids that meet the Special Terms and Conditions in all aspects as stipulated in the bid document shall be considered.

**2. Correctness of information:**

- 2.1 All information required in the bid document must be accurate and duly completed including all the appropriate signatures. The Department reserves the right to verify all information submitted. Non-compliance with the above shall result in elimination from further processes.

**3. Compulsory administrative compliance requirements that must be submitted with the bid:**

- 3.1 Central Suppliers Database registration number;  
3.2 A certified copy of a valid B-BEE certificate or valid sworn affidavit for purposes of confirmation of the bidder being a Level 1 BEE;  
3.3 Documentary proof of bidder being an **EME** or **QSE** (e.g. B-BEE Certificate or Sworn Affidavit or Financial Statements)

**NB. Non-submission of any of the above documents shall result in disqualification.**

**Where copies of original documentation are submitted, those copies must be certified and must not be copies of certified copies. Original certification should not be older than three (3) months. Failure to comply with this requirement shall invalidate the bid submitted.**

**4. To enable scoring on functionality, the following must be submitted with the bid:**

- 4.1 Documentary Proof of experience in support of **Annexure C**.  
4.2 Documentary proof (reference letters) of bidder's track record in project implementation and management is required.  
4.3 CV's and documentary proof of qualifications

**5. FUNCTIONALITY EVALUATION**

- 5.1 The bid documents shall be evaluated individually on score sheets, by a representative evaluation panel, according to the below mentioned evaluation criteria.  
5.2 All service providers who score less than minimum functionality score of (70 points) shall not be considered for the work.  
5.3 The evaluation criteria are as in Table 2 below.

**TABLE 2: ASSESSMENT CRITERIA FOR THE EVALUATION OF THE FUNCTIONALITY**

<b>EVALUATION MATRIX</b>		<b>Points</b>	
	<b>EVALUATION MATRIX</b>	<b>Points %</b>	<b>Evidence</b>
1	<b>SUBMISSION OF SHORT CV'S OF KEY PERSONNEL.</b>	<b>18</b>	
	Proposed personnel: number of project team members presently employed by Principal Agent:		
	○ All proposed team members' CV's were submitted	9	
	○ CV's of 50% or more of the proposed team members were submitted	3	
	○ CV of less than half of the proposed team members were submitted	1	
	○ No CV's were submitted that provided satisfactory info on the staff	0	
	Relevance of team members' experience/expertise for this appointment on basis of submitted CV's:		
	○ All CV's show relevant experience and expertise;	9	
	○ 50% or more CV's show relevant experience and expertise;	3	
	○ Less than 50% of the CV's show relevant experience and expertise;	1	
	○ No CV's show relevant experience/expertise	0	
2	<b>Financial Capacity</b> <b>Total Credit Facility (with financial institution)</b>	<b>22</b>	<i>Evidence of credit facility with manufacturer/ supplier <b>and/or</b> Registered Financial Institution <b>Or</b> Evidence of access to any legal funding instrument (e.g. <b>Letter of intent</b>)</i>



3	<b>DEMONSTRABLE EXPERIENCE OF THE PROSPECTIVE SERVICE PROVIDER'S ENGAGEMENT IN SIMILAR WORK:</b>		<b>40</b>	Documentary proof such as reference letters/assessments indicating value and period of the contract for consultancy type of involvement <b>Annexure C</b>
	Number of relevant projects listed and other consultancy type work in agriculture value chains			
	<ul style="list-style-type: none"> <li>○ 3 or more</li> <li>○ 1-2</li> <li>○ 0</li> </ul>		20 10 0	
	Value of relevant projects completed			
	<ul style="list-style-type: none"> <li>○ Above R100 Mil</li> <li>○ R50 – R100Mil</li> <li>○ Below</li> </ul>		20 10 0	
4	<b>SUBMISSION OF NQF LEVELS IN COMMUNITY DEVELOPMENT AND AGRICULTURE</b>		<b>20</b>	
	<ul style="list-style-type: none"> <li>○ NQF 10 = 20 Points</li> <li>○ NQF 9 = 17 Points</li> <li>○ NQF 8 = 10 Points</li> </ul>			
<b>TOTAL</b>			<b>100%</b>	

The evaluation criteria are as in Table 1 above.

**NOTE:** In order to ensure meaningful evaluation, bidders must submit detailed information in substantiation of the evaluation criteria mentioned.

Submissions will be scored using the above and below scoring tables. This bid will be evaluated on functionality which will determine the capability, ability and capacity of the prospective bidders to provide the required goods or services for the department. A minimum score of 80 points must be obtained by the bidder in order to qualify to be evaluated further for price. It is in the bidders own interest to provide the above information using the 4 highlighted points as a guideline index for submission. This will assist the scoring process.

## 6. TECHNICAL PRESENTATION

Description	Score
1. Overall Understanding of the assignment by Provider on Designing, Implementing and Managing Agri-Hubs.	20
2. Understanding of the challenges Agri-Hubs are addressing mainly in the Province of KZN?	20
3. Crafting of intervention, demonstrating how on Agri Hub in a specific area will be designed.	20
4. Capacity of the bidder in operationalise Agri-Hubs ( <i>Practical solution</i> )?	20
5. Alignment on what is the bidders proposing to the overall strategic intent of the department and time frame.	10
6. What human, physical, institutional and financial resources will you mobilise to ensure this project is a success?	10

## ANNEXURE B

**Previous/Current Supplies Delivered** (*Documents and/or an extended list may be attached for further details*)

	Client Name	Nature of Inputs Supplied	Contract Value	Period of Contract	Contact (Work / Cell Number)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
<b>TOTAL VALUE</b>					

Signed on behalf of bidder:

Date: