



## human settlements

Department:  
Human Settlements  
REPUBLIC OF SOUTH AFRICA

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<http://www.housing.gov.za> Fraud Line: 0800 701 701 Toll Free Line: 0800 1 46873 (0800 1 HOUSE)

REFERENCE : VA49/13-2023/24  
ENQUIRIES : MR M KWINANA  
TELEPHONE : 012 444 9245

**VA49/13-2023/24: APPOINTMENT OF A SERVICE PROVIDER FOR THE SUPPLY, DELIVERY, IMPLEMENTATION OF AN ELECTRONIC MAIL CYBER RESILIENCE SOLUTION AND POST PROVISION OF 24x7 MAINTENANCE AND TECHNICAL SUPPORT SERVICES FOR A PERIOD OF 36 MONTHS IN THE DEPARTMENT NATIONAL OF HUMAN SETTLEMENTS**

- 1 The closing date and time for submission of bid documents is **28 September 2023 @ 11:00**. No late bids documents will be considered. All bids must please be deposited in the Tender Box situated at the main entrance of (DR. RUTH MOMPATI BUILDING, 260 JUSTICE MAHOMED STREET, SUNNYSIDE, PRETORIA)
- 2 It is compulsory that an original proposal/bid documents to be handed in on the closing date and time of the bid.
- 3 You are invited to bid for the services as specified in the attached forms.
- 4 The conditions contained in General Conditions of Contracts (GCC) and the attached SBD1, SBD 3.3, SBD4, SBD 6.1, as well as any other conditions accompanying this request are applicable.
5. **NATIONAL TREASURY CIRCULAR NO 3 OF 2015/2016**
  - 5.1 From 1 April 2016, institutions/departments may not award any bid to a supplier who is not registered on the Central Supplier Database (**CSD**).
  - 5.2 Please submit an original Bid document/Proposal and USB
- 6 **No Briefing Session will be held**
- 7 All enquiries relating to this bid must be addressed to [tendersenquiries@DHS.gov.za](mailto:tendersenquiries@DHS.gov.za)

Regards

.....  
**Ms R Kgantsi (Director)**  
SUPPLY CHAIN MANAGEMENT  
For: **DIRECTOR-GENERAL**  
DATE: 04/09/23  
tendercovlet

Kgoro ya tsa Madulo \* Lefapha la Bodulo \* Lefapha la tsa Manno \* Umnyango Wazindawo Zokuhlala \* Isebe leeNdawo zokuHlala  
\* Liko Letekwakhela Luntu\* Mensike Nedersettings \* UmNyango weeNdawo zokuHlala \* Muhasho wa zwa Vhudzulo \* Ndzawulo ya swa Vutshamo

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**THE DEPARTMENT OF HUMAN SETTLEMENTS**

**BID NUMBER: BID VA49/13-2023/24**

**DESCRIPTION: PROFESSIONAL SERVICE**

**CLOSING DATE and TIME: 28/09/2023 @11:00**

**CHECKLIST TO BE COMPLETED BY BIDDERS**

<b>TABLE OF CONTENTS:</b>	<b>Yes</b>	<b>No</b>
➤ Invitation Letter/ Cover Letter		
➤ (TOR) Terms of Reference		
➤ SBD1 Invitation To Bid		
➤ SBD3.3 Pricing Schedule		
➤ SBD4 Declaration of Interest		
➤ SBD6.1 Preference Point: Purchases		
➤ General Conditions of Contract		
<b>SUPPORTING DOCUMENTS:</b>		
➤ Company Profile		
➤ ID Copies of Directors		
➤ Certificate issued by Registrar of Companies & Close Corporation, issued by CIPRO.		
➤ CSD Status Report		
<b>*** 1 ORIGINAL BID DOCUMENT and 1 USB ***</b>		

**COMPANY NAME:** \_\_\_\_\_

**SIGNATURE** \_\_\_\_\_

**DESIGNATION:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**Bid invitation check list: Compiled: M. KWINANA**

# **TERMS OF REFERENCE FOR THE SUPPLY, DELIVERY, IMPLEMENTATION OF AN ELECTRONIC MAIL CYBER RESILIENCE SOLUTION AND POST PROVISION OF 24x7 MAINTENANCE AND TECHNICAL SUPPORT SERVICES FOR A PERIOD OF 36 MONTHS IN THE DEPARTMENT NATIONAL OF HUMAN SETTLEMENTS**

## **1. PURPOSE**

- 1.1 The National Department of Human Settlements (“the Department”) is seeking services of a qualified, competent, credible, accredited service provider to supply, deliver, installation and implement a suitable Electronic (e-mail) Mail Cyber Resilience Solution to safeguard and protect Departmental email communications and data and post provision of a 24x7 maintenance and technical support services for a period of 36 months.
- 1.2 The Information Regulator now compels/ mandates Public Service institutions to enhance their cyber security control measures to ensure that their electronic communication systems and processes are consistently reliable, safe, secure, protected with minimal/ reduced risks/ threats/ compromise from various cyber-attacks, including planned, unplanned, deliberate and accidental business outages in line with POPIA Act.
- 1.3 In compliance line with the above, and in pursuing/ ensuring optimal delivery of its mandate, the Department is on a progressive mission to put in place a resilient, aligned and integrated ICT environment, with a broad array of technology resources, systems and processes, that seek to enable/ support effective and efficient processing of various Departmental Business and service delivery processes, through:

## **2. SCOPE OF WORK/ OBJECTIVE**

- 2.1 The Department seeks a credible and competent service provider to supply, deploy and maintain implementation of an electronic mail cyber resilience system to strengthen/ enhance its ICT security systems, networks and users, through:
  - 2.1.1 A once-off supply, installation, deployment, implementation of a proven high quality enterprise grade Cloud-based E-mail Cyber Resilience Solution, to effectively, efficiently and adequately support the NDHS size and sites for 800 users /mailboxes, complexity and nature business operations, to strengthen/ enhance the Department internal ICT security systems, networks and processes and related efficacy levels;
  - 2.1.2 Perform initial migration of the current Departmental mailbox to the installed Cloud-based Email Cyber Resilience Solution;
  - 2.1.3 Provision of a post implementation 24x7 maintenance and technical support service of the supplied and implemented solution for a period of 36 months.
- 2.2 **The system should be able to:**
  - 2.2.1 Adequately support the NDHS size and sites for 800 users/ mailboxes;
  - 2.2.2 Adequately support the NDHS complexity and nature business operations, to strengthen/ enhance the Department internal ICT security systems, networks and processes.

- 2.2.3 Allow the Department to independently incorporate additional users in future, up to 1000 users/ mailboxes.
- 2.2.4 Enable monitoring system performance and audit trail reporting.

2.3 The system capabilities should include provision of:

- 2.3.1 Uninterrupted email services and employee email connectivity during planned or unplanned email outages;
- 2.3.2 Protection and security to Departmental email perimeters, data and networks;
- 2.3.3 Highest level of security including a full email encryption service, and spam filtering to eliminate inadvertent or deliberate data leaks and to protect information in transit with minimal IT overhead;
- 2.3.4 Adequate capability to ensure quick recovery of lost or stolen data;
- 2.3.5 Efficient and effective e-mail services for delivery of consistent and safe real-time access and connectivity to the most recent email versions regardless of the device, location and time;
- 2.3.6 Improving the current email backup and archiving arrangement, including guarantee of emails back-up and archiving as per industry best practices;
- 2.3.7 Synchronisation of Microsoft Teams (MS) in order to enable secure capturing of all types of MS Teams data (121/ group/ channel), attachment scanning and retention thereof, for subsequent future easy delivery, use, searching and retrieval of such data.

2.4 **The system should also have capabilities to prevent/ reduce/ eliminate/ neutralize:**

- 2.4.1 Compromises, risks and threats and attacks of business emails, phishing as well as active, emerging and potential cyber-attacks;
- 2.4.2 Compromise of employees' email accounts, including to reduce impersonation of employees emails;
- 2.4.3 Corruption/ infection between sent or transmitted emails;
- 2.4.4 Malicious URL's, email attachments, spam, malware and viruses.
- 2.4.5 Limitations of messages and attachments sizes, thus allowing easy and secure sending of large files.

2.5 **The service provider should, post installation:**

- 2.5.1 Provide a 24x7 appropriate post maintenance and technical support service of the supplied and implemented solution for a period of 36 months.
- 2.5.2 Facilitate regular DHS staff education, alert and awareness on current, emerging and potential cyber security threats, trends and risks with a view to identify, reduce/ eliminate them.

2.6 Costs of all licensing, implementation and support requirements based on the proposed solution. The solution and project success will be measured by the quality, efficiency and effectiveness of deliverables in meeting goals of the Email Cyber Resilience Solution.

### 3. BUSINESS REQUIREMENTS

3.1 The solution must possess the following key functionalities and capabilities:

<b>FUNCTIONS</b>	<b>KEY SOLUTION CAPABILITIES</b>
<b>Mailbox Continuity: Always On Email</b>	<ul style="list-style-type: none"> <li>• Constant monitoring of inbound and outbound email flow to alert server issues.</li> <li>• Support business continuity for email strategy for cloud, hybrid and on-premises Infrastructures.</li> <li>• Automated alerts with one click for continuity activation and employee notification.</li> <li>• Protect employee productivity with fully functional live and historic email as well as calendar access via Outlook, mobile, web and Mac apps.</li> <li>• Streamline and reduce risks of email disruptions during migration to cloud email services like Office 365.</li> </ul>
<b>Cloud-Based email security services</b>	<ul style="list-style-type: none"> <li>• Defend against the risk of spear-phishing and advanced threats in email.</li> <li>• Block spam &amp; viruses.</li> <li>• Protect employees against social engineering and impersonation attacks.</li> <li>• Neutralize threats from malware attachments and malicious URLs.</li> <li>• Enable automated email encryption and secure message deliver.</li> <li>• Various end user applications enhance user experience.</li> <li>• Help to improve users' security awareness.</li> <li>• Detect and block attacks from both external and internal threat actors.</li> </ul>
<b>Email Archiving: Improved compliance, e-discovery, and productivity.</b>	<ul style="list-style-type: none"> <li>• Comprehensive regulatory, e-discovery and litigation support through compliance-driven chains of custody and fully indexed archive for rapid search.</li> <li>• Seamless migration of live and archived email data to Office 365 and other cloud environments.</li> <li>• Reduced cost and complexity through a single cloud platform and an intuitive, unified administrative console.</li> </ul>
<b>Targeted Threat Protection: Internal Email Protect with Remediation</b>	<ul style="list-style-type: none"> <li>• 100% cloud-based solution inspecting email coming into, going out of and staying within the Department.</li> <li>• Detection of lateral movement of attacks via email from one internal user, to another.</li> <li>• Identification of threats or sensitive data leaving an organization that can result in reputational damage.</li> <li>• Automated detection and removal of internal emails which are determined to contain threats.</li> <li>• Reduced risk of a breach or damaging security incident spreading throughout the organization.</li> <li>• Single administration console for reporting, configuration and management across entire email security solution.</li> <li>• Provide instant and comprehensive protection against malware-less email attacks seeking to impersonate trusted senders.</li> </ul>

<b>Content Control &amp; DLP: Cloud-based email service that enforces compliance and addresses data leakage.</b>	<ul style="list-style-type: none"> <li>• Make content compliance controls simple to deploy and manage.</li> <li>• Support governance and compliance objectives to help meet regulations</li> <li>• Enable speedy rollout of data leak prevention.</li> <li>• Enable administrators to easily detect sensitive or confidential information in emails.</li> <li>• Respond to compliance requirements with granular content and DLP policies.</li> <li>• Employees can control administrator-defined policies within Microsoft Outlook.</li> </ul>
<b>Sync and Recover</b>	<ul style="list-style-type: none"> <li>• Unify management of compliance archiving and data resiliency.</li> <li>• Streamline configuration of recovery and search.</li> <li>• Provide a multi-layered defence against Exchange data loss or damage due to ransomware, human error and technical failure.</li> <li>• Enable cloud-to-cloud backup; no hardware or software to manage.</li> </ul>
<b>Comprehensive Protection and Governance for Microsoft Teams</b>	<ul style="list-style-type: none"> <li>• Add a layer of redundancy by having a sync and store of Microsoft Teams data</li> <li>• Apply a unique retention policy for Microsoft Teams data</li> <li>• Provide a single place to search both email and Microsoft Teams messages</li> <li>• Ensure compliance and reduced risk when employees communicate via Microsoft Teams</li> <li>• Scan files to safeguard archived data</li> <li>• Export Microsoft Teams data when needed for investigation or compliance</li> </ul>
<b>Sending Large Files</b>	<ul style="list-style-type: none"> <li>• Attachments are added to an email as normal, and if over a defined size, are securely uploaded to the cloud</li> <li>• Files are virus and DLP policy checked, and stored in an AES encrypted archive</li> <li>• Messages can be sent with attached instructions on how recipients can access files</li> <li>• Message recipients can be directed to a secure web portal, where optional access key is requested if required, and the files are downloaded</li> <li>• Ability to set expiration options and be notified when the file has been downloaded</li> <li>• Employees can invite external parties to securely send them files</li> <li>• Files and messages are uploaded to a secure web portal</li> <li>• Received files are security scanned and stored in an AES encrypted archive for seamless download</li> </ul>
<b>Secure Messaging</b>	<ul style="list-style-type: none"> <li>• Send emails containing sensitive information easily and securely</li> <li>• Secure Message Portal with access from a browser</li> <li>• Secure and intuitive message access</li> <li>• Fully customizable branding to tailor for notifications and the portal with department name, colours and logo</li> <li>• Sender or policy- driven options to rapidly revoke message access, require read receipt, enforce message expiration dates, prevent reply, reply all, forwarding and printing</li> </ul>

	<ul style="list-style-type: none"> <li>Support governance and compliance objectives whereby secure messages are subjected to anti-virus, data leak prevention (DLP) and compliance policies to help meet regulations such as POPI and GDPR</li> </ul>
<b>Awareness Training</b>	<ul style="list-style-type: none"> <li>Online, extensive and constantly growing library of exceptionally engaging, video-based Cyber Security Awareness training modules, delivered every month with automated user tracking of assessments offers covering critical security topics in alignment with key industry standards and security frameworks such as ISO, NIST, PCI DSS, GDPR, and POPIA</li> <li>Leverage user behavioural data to reveal a clear picture of employee risk in real time</li> <li>Identify and target risky user behaviour through realistic threat assessment, powerful risk scoring, and world-class training</li> <li>Phishing Simulations to drive employee change towards cyber security</li> <li>Streamlines security awareness reporting and analytics in a single platform</li> <li>Converts indicators of risk into dynamic user risk scores by aggregating measurements of sentiment, engagement, knowledge and human error at various touch points</li> </ul>

#### 4. TECHNICAL AND SOLUTION REQUIREMENTS

4.1 Provide the following for the Cyber Resilience for Emails Solution/ System:

4.1.1 A License Management for the solution;

4.1.2 Perform initial migration of the current mailbox to Cyber Resilience for Emails Solution;

4.1.3 Continuous and seamless system integration with Microsoft Outlook, Microsoft Exchange 2016, Microsoft Active Directory 2016 or any later versions, to enable user safe and secure access to emails, in the event of any email outages;

4.1.4 Enable plug-in for Outlook and availability of apps for iOS, Android, Huawei OS and Windows Phone mobile devices;

4.1.5 Encryption capability, optional access keys, custom expiration dates and data leak prevention (DLP) controls to secure files, data and content of sent and received emails, and archiving of their associated notifications in line with email retention policies.

4.1.6 Enable sending and receipt of attached large files directly from Outlook by overcoming email size limitations for both sender and recipient.

4.1.7 Quick and easy MS Teams data export capabilities;

4.1.8 System management from a single administration console, with no requirement of additional on-premise hardware;

4.1.9 Continuous system provision through inspection of internal, inbound and outbound emails to enable detection and fighting of any cyber-attacks including phishing, ransomware, impersonation attempts, malicious URLs and attachments.

4.2 Ensure and oversee:

4.2.1 Seamless emails availability through automatic service failover and fallback in real-time.

- 4.2.2 Maintenance and retention of highly secure and resilient offsite, cloud- based perpetual email archive solution.
- 4.2.3 Operational full email functionalities such as attachment scanning to control or block sending sensitive information.
- 4.2.4 Provisioning of Secure Messaging as a secure and private service to enable sharing of sensitive information without a need for additional hardware and software for senders and recipients.
- 4.2.5 Legacy Archive Data Management to allow for legacy email, mailbox and PST data to enable rapid search capabilities in a single integrated cloud archive.

## **5. PROJECT REQUIREMENTS**

- 5.1 The service provider's response should be accompanied by a proposal and project plan that clearly:
  - 5.1.1 Outlines methodology to be used to develop and implement technical requirements.
  - 5.1.2 Identifies documents and deliverables that will be created in response to this Request for Proposal ("RFP").
- 5.2 **The scope of the proposal must include, at a minimum, the following:**
  - 5.2.1 A description of the proposed project management methodology for implementation of the Cyber Resilience Solution for E-mail.
  - 5.2.2 A description of the service provider's experience in performing similar functions in the public service comparable size and scope to this project.
  - 5.2.3 A detailed project plan, including a description of the project's key high-level tasks, as well as specific deliverables with associated timeframes and assumptions thereof.
  - 5.2.4 A system administration training and skills transfer plan for the Departmental IT technical resources
  - 5.2.5 Details of team members expected to work on this project, identified by deliverable, role and estimated number of hours scheduled to work on the project.
- 5.3 **The pricing proposal must be itemised in terms of the following:**
  - 5.3.1 Purchase or design, customisation, supply and installation of Software including applicable licences.
  - 5.3.2 Provision of three (3) years 24x7 post maintenance, warranty and technical support services.
- 5.4 The initial project plan must:
  - 5.4.1 Be refined by adding more detail and establishing the Work Breakdown Structure ("WBS") for the project.
  - 5.4.2 Include a WBS with a breakdown of tasks required to implement each feature and produce deliverable.
  - 5.4.3 Include a refined schedule to account for this level of detail, where milestone delivery dates must still correspond to dates identified in the initial project plan.
  - 5.4.4 Show performance projections against a baseline and be supplemented by additional project progress reports to be submitted as needed.

## **6. The service provider shall:**

- 6.1 Enter into a fixed price contract with the Department to perform tasks as outlined in this specification document.



- 6.2 Be required to provide status updates and an updated project plan to the Department.
- 6.3 Upon demonstration of completion of successful testing and inspection, perform the system cutover based on the approved schedule and plan.
- 6.4 If a major system failure occurs during the implementation period, remedy the problem in accordance with manufacturer's published specifications.
- 6.5 **Should changes be required in the project scope:**
  - 6.5.1 The Department will be responsible for tracking any project changes and communicating with the service provider.
  - 6.5.2 All changes must be documented, with revised price estimates/ projections agreed upon and approved by both the Department and the service provider prior to any actual change implementation.

**6.6 Project deliverables must include the following:**

<b>Deliverable</b>	<b>Media/ Format</b>
Project plan for implementation	Microsoft Project File (.mpp)
Solution design document including diagrams	Document
Quick reference / training material	Document
System administration and solution implementation knowledge transfer	Document/Shadowing/ Training
Configuration document including diagrams	Document
3 Year 24/7 Technical support and maintenance service level agreement	Document

**7. GENERAL REQUIREMENTS**

- 7.1 All written deliverables must be phrased in terms and language that must be understood by non-subject matter experts.
- 7.2 If subcontracting is envisaged, the service provider must clearly indicate parts of work to be subcontracted. The service provider must accept full responsibility for any subcontracted work.
- 7.3 Where there is no indication of work assigned to a subcontractor, it shall be assumed that the work shall be carried out directly by the service provider.
- 7.4 Should it transpire that the proposal submitted by the service provider is not acceptable, the Department may decide to reject the proposal.
- 7.5 Data created or collected from a third party on behalf of the Department by the service provider, as part of contract performance, shall become the property of the Department.
- 7.6 Data provided to the service provider by the Department shall remain the property of the Department. The service provider may not release or make use of such data except authorised in writing by the Department.
- 7.7 For any third party software, as part of this project, the service provider must warrant to the Department that it has obtained all rights, licenses, permissions and authorisations necessary or incidental to any materials owned by third parties supplied or specified by it for incorporation in the project.
- 7.8 Said rights, licenses, permissions and authorisations necessary or incidental to any materials owned by third parties supplied or specified by it for incorporation in the project must be transferred to the Department on completion of the project.

## **8. TECHNICAL REQUIREMENTS**

### **8.1 The service to be rendered must have the following functionalities:**

- 8.1.1 System integrates with Microsoft Exchange 2016/0365 or later versions and Microsoft Active Directory 2016 or later versions.
- 8.1.2 System integrates with Microsoft Outlook 2016 and later version, web interface (HTTPS), Internet Explorer.
- 8.1.3 System ability to brand email messages in line with NDHS corporate identity.

### **8.2 The Service must:**

- 8.2.1 Provide automatic failover in an event of email outage, mail servers or Active Directory failure, to ensure email continuity.
- 8.2.2 Offer 99% email service uptime / availability.
- 8.2.3 Re-synchronize changes of user's emails after the failback and when Microsoft Exchange is restored.
- 8.2.4 Be able to integrate with mobile devices / handsets.
- 8.2.5 Enable users to access emails remotely in the case of outage of NDHS email servers;
- 8.2.6 Be able to sync with Microsoft Outlook calendar.

### **8.3 The solution must:**

- 8.3.1 Have be able to encrypt all email data and user's mailboxes.
- 8.3.2 Have different levels of administrator rights.
- 8.3.3 Not require additional hardware to be installed on NDHS local area network, in instances of deployment or redeployment.
- 8.3.4 Allow users to search for their own individual archived emails using Microsoft Outlook/ Internet Explorer.
- 8.3.5 Offer unlimited archive storage for individual mailboxes.
- 8.3.6 Be able to archive emails and retain data indefinitely or minimum period of ninety-nine (99) years.
- 8.3.7 Be able to encrypt all mails and prevent data leaks.
- 8.3.8 Provide email performance reporting, inbound and outbound emails and audit trail of emails by users, date and subject.
- 8.3.9 Provide spam and antivirus filtering.
- 8.3.10 Integrate with Microsoft Active Directory and import security policies.
- 8.3.11 Respond to governance events effectively and quickly.
- 8.3.12 Enable employees to send and receive large files directly from Outlook, irrespective of the attachment limits of their own or other parties email system.
- 8.3.13 Protect communications and intellectual property.
- 8.3.14 Protect attachments with encryption, optional access key, custom expiration dates and verify receipt and download of files.
- 8.3.15 Be hosted on behalf of NNDHS in accordance with South African legislation and prescripts (e.g. POPIA, MISS etc.).
- 8.3.16 The hosting and processing data centres must be within the borders of the Republic of South Africa.

## **9. SUPPORT SERVICES**

- 9.1 The service provider must provide 24x7 technical support and maintenance with hours of response time for a period of three (3) Years after commissioning the system.
- 9.2 Conduct regular quarterly quality of service meetings with NDHS ICT management on the status of the contract and the service.
- 9.3 The supplier will be required to effectively and efficiently maintain the system for NDHS to ensure that users have access to the following:
  - 9.3.1 24x7x365 access to the emails irrespective of location or device.
  - 9.3.2 User account information and emails hosted in the Cyber Resilience for Emails Solution are protected and kept safe from unauthorised access.
  - 9.3.3 Ensure that the highest levels of security in relation to emails is implemented and adhered to.
  - 9.3.4 Regularly monitor and report on system performance including but not limited to the number of email users successfully syncing with the Cyber Resilience for Email Solution.
  - 9.3.5 Ensure that the necessary security procedures are followed, such as contingency planning, system audits, and continued end user assistance via training and documentation.
  - 9.3.6 Ensure that the solution is regularly updated with the newest versions and suitably configured for the shifting environment.
  - 9.3.7 Provide skills transfer on Cyber Resilience for Email Solution to NDHS internal support staff.
  - 9.3.8 The supplier must conduct phishing awareness simulated campaigns and provide an online resource where departmental officials can be capacitated on email cyber security.
  - 9.3.9 The supplier must develop awareness popup screens that include best practise recommendations.

## **10. REPORTING**

- 10.1 The service provider will report to the ICT Director on a weekly basis.
- 10.2 A weekly status report must be prepared and forwarded to the ICT Director on every Tuesday of the week until completion of the project.

## **11. COMPLETION DATE**

- 11.1 The expected turnaround time for the completion of all deliverables specified is 3 months from the date the order is issued to the service provider.

## **12. TERMS AND CONDITIONS**

- 12.1 The Department reserves the right to terminate this appointment or temporarily defer the work, or any part thereof, at any stage of completion should the Department decide not to proceed with the project.

### **13. COMPULSORY INFORMATION SESSION**

13.1 There shall be no briefing session scheduled for this bid.

### **14. COST**

14.1 The service provider will be requested to provide a quote regarding the work to be undertaken for this project. The total cost must be VAT inclusive and should be quoted in South African currency (i.e. Rands).

14.2 The service provider will be evaluated on pricing and specific goals as per SBD 6.1

### **15. EVALUATION CRITERIA**

15.1 The proposals will be evaluated in two phases:

**Phase 1:** Bidders will be evaluated based on functionality. The minimum threshold for functionality is 80 out of 100 points. Bidders who fail to meet minimum threshold will be disqualified and will not be evaluated further for price and preference points.

	Criteria	Sub-Points	Total
1	<b>Company Experience:</b> The service provider must: <ul style="list-style-type: none"> <li>▪ Have at least five (5) years' experience in the supply, delivery, implementation, maintenance and (24x7) technical support service of E-mail Cyber Resilience solutions in various organisations;</li> <li>▪ Be an authorised E-mail Cyber Resilience delivery partner (Certified Partner Letter from the OEM to be provided)</li> </ul> Must have references of clients where similar services were provided), where: <ul style="list-style-type: none"> <li>▪ Proof (signed off letters) from 5 and above contactable referees.</li> <li>▪ Proof (letters) from 3-4 contactable referees.</li> <li>▪ Proof (letters) from 1-2 contactable referees</li> <li>▪ Proof (letters) 0 contactable referees</li> </ul>	<div>15</div> <div>5</div> <div>5</div> <div>4</div> <div>3</div> <div>0</div>	25
2	<b>Technical Requirements:</b> <ul style="list-style-type: none"> <li>▪ Compatibility with the Department's software environment. (As per paragraph 9.1 Technical requirements)</li> <li>▪ Local (South Africa only) data centres for processing and storage of data</li> <li>▪ Documented on the job System administration training and skills transfer plan for 2 resources</li> </ul>	<div>10</div> <div>5</div> <div>5</div>	20
3	<b>Business Requirements: (As per paragraph 5.1 Business requirements)</b> <ul style="list-style-type: none"> <li>▪ Proposed E-mail Cyber Resilience solution must meet all business requirements. (As per paragraph 5.1 Business requirements)</li> <li>▪ Three (3) Year 24x7 Technical support and maintenance service level agreement</li> </ul>	<div>10</div> <div>5</div>	15
4	<b>Project Work Plan</b> Provide a detailed project implementation plan that includes: <ul style="list-style-type: none"> <li>▪ A Gantt chart showing beginning and end dates of all tasks.</li> <li>▪ A table listing project team assignments and estimated work hours for all tasks</li> </ul>	<div>5</div> <div>5</div>	10
5	<b>Project Managers Qualifications and Experience:</b> The prospective Project Manager must submit a detailed CV, with attached certified copies of qualifications and experience: <ul style="list-style-type: none"> <li>▪ 3 year SAQA accredited National diploma/ degree Qualification in Information Technology and certification in project management; coupled with either</li> <li>▪ 10 years plus relevant experience in managing projects related to email security or projects of a similar nature</li> <li>▪ 6-9 years plus relevant experience in Managing projects related to email security or projects of a similar nature</li> </ul>	<div>7</div> <div>8</div> <div>5</div>	15

	<ul style="list-style-type: none"> <li>5 years and below relevant experience in managing projects related to Email security or a similar nature</li> </ul>	3	
<b>6</b>	<b>Team Qualifications and experience:</b> 3-years tertiary Qualification in Information Technology, Microsoft Cloud qualification, with an accredited tertiary institution. (Attached certified copies of SAQA accredited qualifications) <ul style="list-style-type: none"> <li>10 years plus relevant experience in implementing projects related to email security or projects of a similar nature</li> <li>6-9 years plus relevant experience in implementing projects related to email security or projects of a similar nature</li> <li>5 years and below years relevant experience plus in implementing projects related to email security or projects of a similar nature</li> </ul>	7  8  5  3	<b>15</b>
	<b>Total</b>	<b>100</b>	

NB: All bidders with a score less than 80 out of 100 for functionality will not be considered for the next phase.

**Phase 2:** The 80/20 Preferential Procurement system will be used to evaluate the bids.

<b>Price</b>	<b>80</b>
<b>Specific Goals</b>	<b>20</b>
<b>Total points for price and specific goals</b>	<b>100</b>

## 16. FORMAT AND SUBMISSION OF THE PROPOSAL

- 16.1 All the official forms (SBD) that are included in the bid document must be completed in all respects by bidders. Failure to comply will invalidate a bid.
- 16.2 Bidders are requested to submit two (2) copies: 1 original plus copy of the proposal and bid documents.

## 17. CLOSING DATE

*28/9/2023*

- 17.1 Proposals must be submitted by [Date] at 11H00 at The National Department of Human Settlements in the bid box marked Department of Human Settlements.

## 18. ENQUIRIES

All **enquiries** relating to this bid should be directed to:

E-mail: [tendersenquiries@dhs.gov.za](mailto:tendersenquiries@dhs.gov.za)

## PART A INVITATION TO BID

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)</b>					
BID NUMBER:	VA49/13-2023/24	CLOSING DATE: 28/09/2023		CLOSING TIME:	11:00
DESCRIPTION	PROFESSIONAL SERVICE				
<b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)</b>					
<b>THE NATIONAL DEPARTMENT OF HUMAN SETTLEMENTS,</b>					
<b>DR RUTH MOMPATI BUILDING</b>					
<b>260 JUSTICE MAHOMED STREET,</b>					
<b>SUNNYSIDE, PRETORIA</b>					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>		
CONTACT PERSON			CONTACT PERSON		
TELEPHONE NUMBER			TELEPHONE NUMBER		
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS			E-MAIL ADDRESS	<a href="mailto:tendersenquiries@DHS.gov.za">tendersenquiries@DHS.gov.za</a>	
<b>SUPPLIER INFORMATION</b>					
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:		<b>OR</b>	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
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW ]
<b>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE A BRANCH IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.					

## PART B

### TERMS AND CONDITIONS FOR BIDDING

<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 <a href="http://WWW.SARS.GOV.ZA">WWW.SARS.GOV.ZA</a> .
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

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

SIGNATURE OF BIDDER: .....

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

DATE: .....



**PRICING SCHEDULE**  
(Professional Services)

NAME OF BIDDER: .....	BID NO.: <b>VA49/13-2023/24</b>
CLOSING TIME <b>11:00</b>	CLOSING DATE: <b>28/09/2023</b>

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

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY ** (ALL APPLICABLE TAXES INCLUDED)
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**VA49/13 - 2023/24: APPOINTMENT OF A SERVICE PROVIDER FOR THE SUPPLY, DELIVERY, IMPLEMENTATION OF AN ELECTRONIC MAIL CYBER RESILIENCE SOLUTION AND POST PROVISION OF (24x7) MAINTENANCE AND TECHNICAL SUPPORT SERVICES FOR A PERIOD OF 36 MONTHS IN THE DEPARTMENT NATIONAL OF HUMAN SETTLEMENTS.**

1. The accompanying information must be used for the formulation of proposals.
2. Bidders are required to indicate a **ceiling price** based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project.
3. PERSONS WHO WILL BE INVOLVED IN THE PROJECT AND RATES APPLICABLE (CERTIFIED INVOICES MUST BE RENDERED IN TERMS HEREOF)

R.....

4. PERSON AND POSITION

HOURLY RATE

DAILY RATE

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

R.....  
R.....  
R.....  
R.....  
R.....

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

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

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

R.....  
R.....  
R.....  
R.....

..... days  
..... days  
..... days  
..... days

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

DESCRIPTION OF EXPENSE TO BE INCURRED

RATE

QUANTITY

AMOUNT

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

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

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

R.....  
R.....  
R.....  
R.....

TOTAL: R.....

Name of Bidder: .....

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

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

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

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

\*[DELETE IF NOT APPLICABLE]

Any enquiries regarding bidding procedures may be directed to the –

THE NATIONAL DEPARTMENT OF HUMAN SETTLEMENTS, 260 JUSTICE MAHOMED STREET, DR RUTH MOMPATI HOUSE, SUNNYSIDE, PRETORIA, 0002

for technical information: [tendersenquiries@DHS.gov.za](mailto:tendersenquiries@DHS.gov.za)

## BIDDER'S DISCLOSURE

### 1. PURPOSE OF THE FORM

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

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

### 2. Bidder's declaration

- 2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest<sup>1</sup> in the enterprise, employed by the state? YES/NO

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

Full Name	Identity Number	Name of institution	State

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

---

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

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

2.2.1 If so, furnish particulars:

.....  
 .....

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

2.3.1 If so, furnish particulars:

.....  
 .....

### 3 DECLARATION

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

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>2</sup> will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring

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

**SBD4**

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

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

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

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

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of bidder

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

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

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

**1. GENERAL CONDITIONS**

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

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

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

*(delete whichever is not applicable for this tender).*

a) The applicable preference point system for this tender is the **80/20** preference point system.

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

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

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

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
SPECIFIC GOALS	20
<b>Total points for Price and SPECIFIC GOALS</b>	<b>100</b>

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

1.6 The organ of state reserves the right to require of a tenderer, either before a tender is

adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

## 2. DEFINITIONS

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

## 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

### 3.1. POINTS AWARDED FOR PRICE

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

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

<b>80/20</b>	<b>or</b>	<b>90/10</b>
$Ps = 80 \left( 1 - \frac{Pt - Pmin}{Pmin} \right) \text{ or } Ps = 90 \left( 1 - \frac{Pt - Pmin}{Pmin} \right)$		

Where

- Ps = Points scored for price of tender under consideration
- Pt = Price of tender under consideration
- Pmin = Price of lowest acceptable tender

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

### 3.2.1. POINTS AWARDED FOR PRICE

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

$$\begin{array}{ccc} 80/20 & \text{or} & 90/10 \\ Ps = 80 \left( 1 + \frac{Pt - P_{max}}{P_{max}} \right) & \text{or} & Ps = 90 \left( 1 + \frac{Pt - P_{max}}{P_{max}} \right) \end{array}$$

Where

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

#### 4. POINTS AWARDED FOR SPECIFIC GOALS

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

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

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

***Note to tenderers: The tenderer must indicate how they claim points for each***



preference point system.)

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Women		10		
Youth		08		
People with Disabilities		02		

#### DECLARATION WITH REGARD TO COMPANY/FIRM

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

4.4. Company registration number: .....

4.5. TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

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

- i) The information furnished is true and correct;

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

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

# **THE NATIONAL TREASURY**

**Republic of South Africa**



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## **GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT**

**July 2010**

**GOVERNMENT PROCUREMENT**  
**GENERAL CONDITIONS OF CONTRACT**  
**July 2010**

**NOTES**

The purpose of this document is to:

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

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

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

## TABLE OF CLAUSES

1. Definitions
2. Application
3. General
4. Standards
5. Use of contract documents and information; inspection
6. Patent rights
7. Performance security
8. Inspections, tests and analysis
9. Packing
10. Delivery and documents
11. Insurance
12. Transportation
13. Incidental services
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15. Warranty
16. Payment
17. Prices
18. Contract amendments
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Dumping and countervailing duties
25. Force Majeure
26. Termination for insolvency
27. Settlement of disputes
28. Limitation of liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties
33. National Industrial Participation Programme (NIPP)
34. Prohibition of restrictive practices

## **General Conditions of Contract**

### **1. Definitions**

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

RSA.

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

obligations of the supplier covered under the contract.

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

**2. Application**

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

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

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

**3. General**

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

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

**4. Standards**

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

**5. Use of contract documents and information; inspection.**

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

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

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

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

**6. Patent rights**

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



**7. Performance security**

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

**8. Inspections, tests and analyses**

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

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

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

#### **9. Packing**

- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

#### **10. Delivery and documents**

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

#### **11. Insurance**

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

#### **12. Transportation**

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

#### **13. Incidental services**

- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
  - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
  - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

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

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

#### 14. Spare parts

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

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

#### 15. Warranty

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

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

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

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

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

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

**16. Payment**

- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated in SCC.

**17. Prices**

- 17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.

**18. Contract amendments**

- 18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.

**19. Assignment**

- 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.

**20. Subcontracts**

- 20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

**21. Delays in the supplier's performance**

- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the

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

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

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

## **22. Penalties**

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

## **23. Termination for default**

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

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

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

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

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

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

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

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

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

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

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

#### **24. Anti-dumping and countervailing duties and rights**

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

may be due to him

**25. Force Majeure**

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

**26. Termination for insolvency**

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

**27. Settlement of Disputes**

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

**28. Limitation of liability**

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

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



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