

Department of Water and Sanitation: Request for Proposals (RFP) for the selection of Independent Power Producers (BIDDERS) for energy augmentation at selected government waterworks infrastructure for a 40-year operational period in Design-Build-Finance –Own-Operate (DBFOO) mode



water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA

DUE AT 11:00 ON

29 MARCH 2024

**REQUEST FOR PROPOSAL (RFP) FOR THE SELECTION OF
INDEPENDENT POWER PRODUCERS (BIDDERS) FOR ENERGY
AUGMENTATION AT SELECTED GOVERNMENT WATERWORKS
INFRASTRUCTURE FOR A 40-YEAR OPERATIONAL PERIOD IN
DESIGN-BUILD-FINANCE-OWN-OPERATE (DBFOO) MODE**

SUBMIT BID DOCUMENTS TO:

POSTAL ADDRESS:
DIRECTOR-GENERAL:
DEPARTMENT OF WATER AND SANITATION
PRIVATE BAG X313
PRETORIA, 0001

OR

TO BE DEPOSITED IN:
THE BID BOX AT THE ENTRANCE
OF ZWAMADAKA BUILDING
157 FRANCIS BAARD STREET
PRETORIA, 0001

Briefing Session or Clarification Meeting

Date: 20 October 2023
Time: 11:00 am
Venue: Department of Water and Sanitation
173 Francis Baard Street
Emanzini Building
G18 Boardroom
Pretoria

BIDDER: (Company Address or Stamp)

COMPILED BY: INFRASTRUCTURE MANAGEMENT BRANCH

Department of Water and Sanitation: Request for Proposals (RFP) for the selection of Independent Power Producers (BIDDERS) for energy augmentation at selected government waterworks infrastructure for a 40-year operational period in Design-Build-Finance –Own-Operate (DBFOO) mode



water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA

**REQUEST FOR PROPOSALS (RFP)
FOR THE SELECTION OF INDEPENDENT POWER PRODUCERS
(BIDDERS)
FOR
ENERGY AUGMENTATION AT A SELECTED GOVERNMENT
WATERWORKS INFRASTRUCTURE FOR A 40-YEAR
OPERATIONAL PERIOD
ON
DESIGN-BUILD-FINANCE-OWN-OPERATE (DBFOO) MODE**

BID NO: DWS17-0923WTE

CONTENTS OF RFP

**VOLUME I – INSTRUCTIONS TO BIDDERS
VOLUME II – RETURNABLES DOCUMENTS AND SCHEDULES
VOLUME III – DRAFT CONTRACT
VOLUME IV: POWER PURCHASE AGREEMENT**

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REQUEST FOR PROPOSALS (RFP)

FOR

THE SELECTION OF INDEPENDENT POWER PRODUCERS

(BIDDERS)

FOR

ENERGY AUGMENTATION AT SELECTED GOVERNMENT

WATERWORKS INFRASTRUCTURE

FOR

A 40-YEARS OPERATIONAL PERIOD

ON

DESIGN-BUILD-FINANCE-OWN-OPERATE (DBFOO) MODE

VOLUME I: INSTRUCTIONS TO BIDDERS

Department of Water and Sanitation: Request for Proposals (RFP) for the selection of Independent Power Producers (BIDDERS) for energy augmentation at selected government waterworks infrastructure for a 40-year operational period in Design-Build-Finance –Own-Operate (DBFOO) mode

1. GENERAL BID INFORMATION



water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA

DUE AT 11:00 ON

29 MARCH 2024

REQUEST FOR PROPOSAL (RFP) FOR THE SELECTION OF INDEPENDENT POWER PRODUCERS (BIDDERS) FOR ENERGY AUGMENTATION AT SELECTED GOVERNMENT WATERWORKS INFRASTRUCTURE FOR A 40-YEAR OPERATIONAL PERIOD IN DESIGN-BUILD-FINANCE-OWN-OPERATE (DBFOO) MODE

SUBMIT BID DOCUMENTS TO:

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BIDDER: (Company Address or Stamp)

COMPILED BY: INFRASTRUCTURE MANAGEMENT BRANCH

2. CONDITIONS OF THE BID

2.1 GENERAL

2.1.1 ACTIONS

- 2.1.1.1 The Department of Water and Sanitation (*the “Department”*) and each Bidder submitting a Bid offer shall comply with these conditions of the Bid. In their dealings with each other, they shall discharge their duties and obligations as set out in these conditions of the Bid, timeously and with integrity, behave equitably, honestly, and transparently, and comply with all legal obligations.

The Parties agree that this Bid, its evaluation and acceptance, and any resulting contract shall also be subject to the Department’s Supply Chain Management Policy (‘SCM Policy’) that was applicable on the date the Bid was advertised, save that if the Department adopts a new SCM Policy which contemplates that any Clause therein would apply to the contract emanating from this Bid, such Clause shall also be applicable to that contract. Please refer to this document contained on the Department’s website.

Abuse of the supply chain management system is not permitted and may result in the Bid being rejected, cancellation of the contract, restriction of the supplier, and/or the exercise by the Department of any other remedies available to it as described in the SCM Policy.

- 2.1.1.2 The Department, the Bidder, and their agents and employees involved in the Bid process shall avoid conflicts of interest, and where a conflict of interest is perceived or known, declare any such conflict of interest, indicating the nature of such conflict. Bidders shall declare any potential conflict of interest in their Bid submissions. Employees, agents, and advisors of the Department shall declare any conflict of interest to the Department at the start of any deliberations relating to the procurement process or as soon as they become aware of such conflict and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.

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2.1.1.3 The Department shall not seek, and a Bidder shall not submit a Bid, without having a firm intention and capacity to proceed with the contract.

2.1.2 INTERPRETATION

2.1.2.1 The additional requirements contained in the returnable documents are part of these Conditions of Bid.

2.1.2.2 These Conditions of Bid and returnable schedules which are required for Bid evaluation purposes, shall form part of the contract arising from the invitation to Bid.

2.1.3 COMMUNICATION DURING THE BID PROCESS

Verbal or any other form of communication, from the Department, its employees, agents, or advisors during site visits/clarification meetings or at any other time prior to the award of the Contract, will not be regarded as binding on the Department unless communicated by the Department in writing to suppliers by its Chief Director: Supply Chain Management (CD: SCM) or his nominee.

2.1.4 THE DEPARTMENT'S RIGHT TO ACCEPT OR REJECT ANY BID OFFER

2.1.4.1 The Department may accept or reject any Bid offer and may cancel the Bid process or reject all Bid offers at any time before the formation of a contract. The Department may, prior to the award of the Bid, cancel a Bid if:

- a) due to changed circumstances, there is no longer a need for the services, works, or goods requested; or
- b) funds are no longer available to cover the total envisaged expenditure; or
- c) no acceptable Bids are received;
- d) there is a material irregularity in the Bid process; or
- e) the parties are unable to negotiate market-related pricing.

The Department shall not accept or incur any liability to a Bidder for such cancellation or rejection but will give written reasons for such action upon receiving a written request to do so.

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2.1.5 PROCUREMENT PROCEDURES

2.1.5.1 General

Unless otherwise stated in the Bid conditions, a contract will be concluded with the Bidder(s) who score(s) the highest number of Bid adjudication points per Bid.

The Department intends to award the Bid to multiple Bidders through a two-stage Bidding process.

Bidders' submissions will need to demonstrate that they meet the eligibility criteria as stipulated in Clause 2.2.1.

Bidders who meet these criteria will then be invited to provide a financial offer in the second stage of the Bid process.

Awards will be made to those qualifying Bidders with the highest scoring Bids (for one or multiple sites) up to limits determined by the following:

1. The combined total generation capacity for all technologies to be awarded under this Bid shall have a minimum capacity to meet the demand of the listed sites in Schedule 13 (Specifications)
2. The total generation capacity will be limited by the National Government / NERSA at the time of the award, but will not exceed a total of 159 MVA, AC
3. The Department would be the primary energy off-taker and where there is a surplus of energy the Bidder must have secondary users/off-takers
4. Network operational constraints, which if breached will lead to non-compliance with applicable technical standards, national grid codes, and other applicable legal and regulatory requirements.

The Department intends to award contracts to successful Bidders on an incremental basis, starting with the highest-scoring Bid and continuing with progressively lower-scoring Bids, up until the full allocation of 159 MVA has been reached.

The maximum R/kWh rate the Department will pay for electricity under the PPA will be limited to the equivalent of the prevailing local power supply authority tariff applicable to the Department at the time of award, including all kWh-based levies.

If insufficient responsive Bids are received, the Department reserves the right not to appoint a Bidder at all. The Department also reserves the right to only appoint a single Bidder for any single Eskom in-take point, in the event that more than one Bidder, deemed responsive, intends to connect to networks supplied from the same in-take points.

2.1.5.1.1 The contract award will be suspensive upon the successful outcomes of the following:

- ❖ Section 34 of the Electricity Regulation Act (ERA) determination application, as applicable;
- ❖ All project-specific authorizations are being obtained.

The contract shall be for a period of 40 years from the date of commercial operation, or as per the agreed PPA term.

2.1.5.1.2 Bidding procedure using the one-stage-system

A one-stage system will be followed.

2.1.5.1.2.1 Bidders shall submit the one-envelope-system bid as a single submission.

2.1.5.1.2.2 The Department will evaluate all the bids in terms of the Preference Procurement Regulations, 2022, whereby, the bids will be adjudicated on the 90/10 point system and the evaluation criteria.

2.1.5.1.2.3 Four-phase-based evaluation criteria will be followed in evaluating the bid.

2.1.6 APPEALS/ OBJECTIONS AGAINST THE TENDER RESULTS

2.1.6.1.1 Persons aggrieved by decisions taken by DWS in the award of a contract may lodge an appeal/objection against that decision by giving written notice of the appeal. Each appeal/objection must contain the full basis and reasons for the appeal and must address it to the Accounting Officer (the Appeal Authority) within 7 business days of the date of publication of the intention to award the advert or notification of the tender results letter.

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2.1.6.1.2 Bid documents must state that any appeal lodged must be submitted to the SCM Unit for the attention of the Chief Financial Officer at the address to be stated in the tender document, and must contain the following:

- ❖ Bid number and title;
- ❖ Reasons and/or grounds for the appeal;
- ❖ The way in which the appellants' rights have been affected; and
- ❖ The remedy sought by the appellant.

2.1.6.1.3 DWS shall respond to the aggrieved party promptly on all objections.

2.1.6.1.4 DWS shall adhere to the Promotion of Administrative Justice Act 3 of 2000 (PAJA) for procedures applicable in challenging procurement decisions. In consequence, thereof, prior to instituting judicial review proceedings it is required that an applicant first exhausts any internal remedies as provided for by PAJA.

2.1.6.1.5 The appeal process and resolution of disputes will be handled in terms of the Standard Operating Procedures and Service Level Agreement, where the Agreement is concluded.

2.1.7 NATIONAL TREASURY WEB-BASED CENTRAL SUPPLIER DATABASE (CSD) REGISTRATION

Bidders are required to be registered on the National Treasury Web-Based Central Supplier Database (CSD) as a service provider. Bidders must register as such upon being requested to do so in writing and within the period contained in such a request, failing which no orders can be raised or payments processed from the resulting contract. In the case of Joint Venture partnerships, this requirement will apply individually to each party of the Joint Venture.

Bidders who wish to register on the National Treasury Web-Based Central Supplier Database (CSD) may do so via the web address <https://secure.csd.gov.za>.

It is each Bidder's responsibility to keep all the information on the National Treasury Web-Based Central Supplier Database (CSD) updated.

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2.2 BIDDER’S OBLIGATIONS

2.2.1 ELIGIBILITY CRITERIA

2.2.1.1 Bidders are obligated to submit a Bid offer that complies in all aspects with the conditions as detailed in this Bid document. Only those Bids that comply in all aspects with the Bid conditions, specifications, pricing instructions, and contract conditions will be declared to be responsive.

2.2.1.1.1 Submit a Bid Offer

Only those Bid submissions from which it can be established that a clear, irrevocable, and unambiguous offer has been made to Department, by whom the offer has been made and what the offer constitutes, will be declared responsive.

2.2.1.1.2 Compliance with requirements of the Department SCM Policy and Procedures

Only those Bids that are compliant with the requirements below will be declared responsive:

- a. A completed Details of Bidder to be provided (applicable schedule to be completed);
- b. A completed Certificate of Authority for Partnerships/ Joint Ventures/ Consortiums to be provided authorizing the Bid to be made and the signatory to sign the Bid on the partnership /joint venture/consortium’s (applicable schedule to be completed);
- c. A copy of the partnership / joint venture/consortium agreement is to be provided.
- d. A completed Declaration of Interest – State Employees to be provided and which does not indicate any non-compliance with the legal requirements relating to state employees (applicable schedule to be completed);
- e. A completed Declaration – Conflict of Interest to be provided and which does not indicate any conflict that render the Bid non-responsive based on the conditions contained thereon (applicable schedules to be completed);
- f. The Bidder (including any of its directors or members), has not been restricted in terms of abuse of the Supply Chain Management Policy,

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- g. The Bidder's tax matters with SARS are in order, or the Bidder is a foreign supplier that is not required to be registered for tax compliance with SARS;
- h. The Bidder is not an advisor or consultant contracted with the Department whose prior or current obligations create any conflict of interest or unfair advantage,
- i. The Bidder is not a person, advisor, corporate entity, or a director of such corporate entity, involved with the Bid specification committee;
- j. A completed Site Inspection Declaration to be provided which does not indicate any details that render the Bid non-responsive based on the conditions contained thereon (applicable schedules to be completed);
- k. The Bidder (including any of its directors or members), has not been found guilty of contravening the Competition Act 89 of 1998, as amended from time to time;
- l. The Bidder (including any of its directors or members), has not been found guilty on any other basis listed in the Supply Chain Management Policy.

2.2.1.2 Local Production and Content

Not Applicable

2.2.1.3 Pre-qualification Criteria for preferential procurement

Not applicable

2.2.2 COST OF BIDDING

The Department will not be liable for any costs incurred in the preparation and submission of a Bid offer, including the costs of any testing necessary to demonstrate that aspects of the offer comply with requirements.

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2.2.3 CHECK DOCUMENTS

The documents issued by the Department for the purpose of a Bid offer are listed in the index of this Bid document.

Before submission of any Bid, the Bidder should check the number of pages, and if any are found to be missing or duplicated, or the figures or writing is indistinct, or if the Price Schedule contains any obvious errors, the Bidder must apply to the Department at once to have the same rectified.

2.2.4 CONFIDENTIALITY AND COPYRIGHT OF DOCUMENTS

Treat as confidential all matters arising in connection with the Bid. Use and copy the documents issued by the Department only for the purpose of preparing and submitting a Bid offer in response to the invitation.

2.2.5 REFERENCE DOCUMENTS

Obtain, as necessary for submitting a Bid offer, copies of the latest versions of standards, specifications, Conditions of Contract, and other publications, which are not attached but which are incorporated into the Bid documents by reference.

2.2.6 ACKNOWLEDGE AND COMPLY WITH NOTICES

Acknowledge receipt of notices to the Bid documents, which the Department may issue, fully comply with all instructions issued in the notices, and if necessary, apply for an extension of the closing time stated on the front page of the Bid document, in order to take the notices into account. Notwithstanding any requests for confirmation of receipt of notices issued, the Bidder shall be deemed to have received such notices if the Department can show proof of transmission thereof via electronic mail, facsimile, or registered post.

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2.2.7 COMPULSORY CLARIFICATION MEETING

Attend, where required, a clarification meeting at which Bidders may familiarise themselves with aspects of the proposed work, services, or supply and pose questions. Details of the meeting(s) are stated in the General Bid Information.

Bidders should be represented at the site visit/clarification meeting by a person who is suitably qualified and experienced to comprehend the implications of the work involved.

The Compulsory Clarification Meeting will be held as per Project Milestones Schedule in Clause 2.13, (*Volume III, Part 13: Specification*) of the Bid.

2.2.8 SEEK CLARIFICATION

Request clarification of the Bid documents, if necessary, by notifying the Department at least one week before the closing time stated in the General Bid Information, where possible.

2.2.9 PRICING THE BID OFFER

2.2.9.1 Comply with all pricing instructions as stated on the Price Schedule.

2.2.10 ALTERATIONS TO DOCUMENTS

Do not make any alterations or additions to the Bid documents, except to comply with instructions issued by the Department in writing, or necessary to correct errors made by the Bidder. All signatories to the Bid offer shall initial all such alterations.

2.2.11 SUBMITTING A BID OFFER

2.2.11.1 Submit one Bid offer only on the original Bid documents as issued by the Department, either as a single Bidding entity or as a member in a joint venture to provide the whole of the works, services, or supply identified in the contract conditions and described in the specifications. Only those Bids submitted on the Bid documents as issued by the Department together with all Returnable Schedules duly completed and signed will be declared responsive.

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2.2.11.2 Return the entire document to the Department after completing it in its entirety, either electronically (if they were issued in electronic format) or by writing legibly in non-erasable ink.

2.2.11.3 Submit the parts of the Bid-offer communicated on paper as an original with an English translation for any part of the Bid submission not made in English.

1 (One) copy(ies) of the following elements of the Bid submission must be submitted separately bound in the same envelope where possible:

Part	Heading
5	Price Schedules
6	Supporting Schedules
	All other attachments submitted by the Bidder

2.2.11.4 Sign the original Bid offer where required in terms of the Bid conditions. The Bid shall be signed by a person duly authorized to do so. Bids submitted by joint ventures of two or more firms shall be accompanied by the document of formation of the joint venture or any other document signed by all parties, in which is defined precisely the conditions under which the joint venture will function, its period of duration, the persons authorized to represent and obligate it, the participation of the several firms forming the joint venture, and any other information necessary to permit a full appraisal of its functioning. Signatories for Bidders proposing to contract as joint ventures shall state which of the signatories is the lead partner.

2.2.11.5 Where a two-envelope system is required in terms of the Bid conditions, place and seal the returnable documents listed in the Bid conditions in an envelope marked “financial proposal” and place the remaining returnable documents in an envelope marked “technical proposal”. Each envelope shall state on the outside the Department’s address and identification details stated in the General Bid Information, as well as the Bidder's name and contact address.

2.2.11.6 Seal the original Bid offer and copy packages together in an outer package that states on the outside only the Department's address and identification details as stated in the General Bid Information. If it is not possible to submit the original Bid and the required copies (see 2.2.12.3) in a single envelope, then the Bidder must seal the original and

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each copy of the Bid offer as separate packages marking the packages as “ORIGINAL” and “COPY” in addition to the aforementioned Bid submission details.

- 2.2.11.7 Accept that the Department shall not assume any responsibility for the misplacement or premature opening of the Bid offer if the outer package is not sealed and marked as stated.
- 2.2.11.8 Accept that Bid offers submitted by facsimile or e-mail will be rejected by the Department unless stated otherwise in the Bid conditions.
- 2.2.11.9 By signing the offer part of the Form of Offer (Volume II, Part 4) the Bidder warrants that all information provided in the Bid submission is true and correct.
- 2.2.11.10 Bids must be properly received and deposited in the designated Bid box (as detailed on the front page of this Bid document) on or before the closing date and before the closing time, in the relevant Bid box at the ZwaMadaka Building situated, at 157 Francis Baard Street, Pretoria. If the Bid submission is too large to fit in the allocated box, please enquire at the public counter for assistance.
- 2.2.11.11 The Bidder must record and reference all information submitted contained in other documents for example cover letters, brochures, catalogues, etc. in the returnable schedule titled List of Other Documents Attached by Bidder.

2.2.12 INFORMATION AND DATA TO BE COMPLETED IN ALL RESPECTS

Accept that Bid offers, which do not provide all the data or information requested completely and in the form required, may be regarded by the Department as non-responsive.

2.2.13 CLOSING TIME

- 2.2.13.1 Ensure that the Department receives the Bid offer at the address specified in the General Bid Information prior to the closing time stated on the front page of the Bid document.
- 2.2.13.2 Accept that, if the Department extends the closing time stated on the front page of the Bid document for any reason, the requirements of these Conditions of the Bid apply equally to the extended deadline.
- 2.2.13.3 Accept that the Department shall not consider Bids that are received after the closing date and time for such a Bid (late Bids).

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2.2.14 BID OFFER VALIDITY AND WITHDRAWAL OF BIDS

- 2.2.14.1 Warrants that the Bid offer(s) remains valid, irrevocable, and open for acceptance by the Department at any time for a period of 120 days after the closing date stated on the front page of the Bid document.
- 2.2.14.2 Notwithstanding the period stated above, Bids shall remain valid for acceptance for a period of twelve (12) months after the expiry of the original validity period, unless the Department is notified in writing of anything to the contrary by the Bidder. The validity of Bids may be further extended by a period of not more than six months subject to mutual agreement and administrative processes and upon approval by the CD: SCM.
- 2.2.14.3 A Bidder may request in writing, after the closing date, that the Bid offer be withdrawn. Such withdrawal will be permitted or refused at the sole discretion of the Department after consideration of the reasons for the withdrawal, which shall be fully set out by the Bidder in such a written request for withdrawal. Should the Bid offer be withdrawn in contravention hereof, the Bidder agrees that:
- a. it shall be liable to the Department for any additional expense incurred or losses suffered by the Department in having either to accept another Bid or, if new Bids have to be invited, the additional expenses incurred or losses suffered by the invitation of new Bids and the subsequent acceptance of any other Bid;
 - b. the Department shall also have the right to recover such additional expenses or losses by set-off against monies which may be due or become due to the Bidder under this or any other Bid or contract or against any guarantee or deposit that may have been furnished by the Bidder or on its behalf for the due fulfilment of this or any other Bid or contract. Pending the ascertainment of the amount of such additional expenses or losses, the Department shall be entitled to retain such monies, guarantees, or deposits as security for any such expenses or loss.

2.2.15 CLARIFICATION OF BID OFFER, OR ADDITIONAL INFORMATION, AFTER SUBMISSION

Provide clarification of a Bid offer, or additional information, in response to a written request to do so from the Department during the evaluation of Bid offers within the time period stated in such request. No change in the competitive position of Bidders or substance of the Bid offer is sought, offered, or permitted.

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Note: This Clause does not preclude the negotiation of the final terms of the contract with a preferred Bidder following a competitive selection process, should the Department elect to do so.

Failure, or refusal, to provide such clarification or additional information within the time for submission stated in the Department's written request may render the Bid non-responsive.

2.2.16 PROVIDE OTHER MATERIAL

2.2.16.1 Provide, on request by the Department, any other material that has a bearing on the Bid offer, the Bidder's commercial position (including joint venture agreements), preferencing arrangements, or samples of materials, considered necessary by the Department for the purpose of the evaluation of the Bid. Should the Bidder not provide the material, or a satisfactory reason as to why it cannot be provided, by the time for submission stated in the Department's request, the Department may regard the Bid offer as non-responsive.

2.2.16.2 Provide, on written request by the Department, where the transaction value inclusive of VAT exceeds R 10 million:

- a. Audited annual financial statement for the past 3 years, or for the period since establishment if established during the past 3 years, if required by law to prepare annual financial statements for auditing;
- b. A certificate signed by the Bidder certifying that the Bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
- c. Particulars of any contracts awarded to the Bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
- d. A statement indicating whether any portion of the goods or services is expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of the payment from the municipality or municipal entity is expected to be transferred out of the Republic.

Each party to a Consortium/Joint Venture shall submit separate certificates/statements in the above regard.

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2.2.16.3 Bidders undertake to fully cooperate with the Department's external service provider appointed to perform a due diligence review and risk assessment upon receipt of such written instruction from the Department.

2.2.17 SAMPLES, INSPECTIONS, TESTS AND ANALYSIS

Provide access during working hours to premises for inspections, tests, and analysis as provided for in the Bid conditions or specifications.

If the Specification requires the Bidder to provide samples, these shall be provided strictly in accordance with the instructions set out in the Specification.

If such samples are not submitted as required in the Bid documents or within any further time stipulated by the Department in writing, then the Bid concerned may be declared non-responsive.

The samples provided by all successful Bidders will be retained by the Department for the duration of any subsequent contract. Bidders are to note that samples are requested for testing purposes therefore samples submitted to the Department may not in all instances be returned in the same state of supply and in other instances may not be returned at all. Unsuccessful Bidders will be advised by the Project Manager or dedicated Department Official to collect their samples, save in the aforementioned instances where the samples would not be returned.

2.2.18 CERTIFICATES

The Bidder must provide the Department with all certificates as stated below:

2.2.18.1 Broad-Based Black Economic Empowerment Status Level Documentation

In order to qualify for preference points, it is the responsibility of the Bidder to submit documentary proof, either as certificates, sworn affidavits, or any other requirement prescribed in terms of the B-BBEE Act, of its B-BBEE status level of contribution in accordance with the applicable Codes of good practice as issued by the Department of Trade and Industry.

Consortiums/Joint Ventures will qualify for preference points, provided that the entity submits the relevant certificate/scorecard in accordance with the applicable codes of good practice. Note that, in the case of unincorporated entities, a verified consolidated B-BBEE scorecard must be submitted in the form of a certificate with the Bid.

Bidders are further referred to the content of the Preference Schedule for the full terms and conditions applicable to the awarding of preference points.

The applicable code for this Bid is the Amended Codes of Good Practice (Generic Scorecard) unless in possession of a valid sector certificate.

The Bidder shall indicate in Section 4 of the Preference Schedule the Level of Contribution in respect of the enterprise status or structure of the Bidding entity (the supplier).

2.2.18.2 Evidence of tax compliance

Bidders shall be registered with the South African Revenue Service (SARS) and their tax affairs must be in order, and they must be tax compliant subject to the requirements of Clause 2.2.1.1.2.h. In this regard, it is the responsibility of the Bidder to submit evidence in the form of a valid Tax Clearance Certificate issued by SARS to the Department included with this Bid. The Bidder must also provide its Tax Compliance Status PIN number on the Details of Bidder pages of the Bid submission.

Each party to a Consortium/Joint Venture shall submit a separate Tax Clearance Certificate.

Before making an award, the Department must verify the Bidder's tax compliance status. Where the recommended Bidder is not tax compliant, the Bidder should be notified of the non-compliant status and be requested to submit to the Department, within seven (7) working days, written proof from SARS that they have made arrangements to meet their outstanding tax obligations. The proof of tax compliance submitted by the Bidder must be verified by the Department via CSD or e-Filing. The Department should reject a Bid submitted by the Bidder if such Bidder fails to provide proof of tax compliance within the timeframe stated herein.

Only foreign suppliers who have answered “NO” to all the questions contained in the Questionnaire to Bidding Foreign Suppliers section on the Details of Bidder pages of the Bid submission are not required to register for a tax compliance status with SARS.

2.2.19 COMPLIANCE WITH THE OCCUPATIONAL HEALTH AND SAFETY ACT, 85 OF 1993

Bidders are to note the requirements of the Occupational Health and Safety Act, 85 of 1993. The Bidder shall be deemed to have read and fully understood the requirements of the above Act and Regulations and to have allowed for all costs in compliance therewith.

In this regard, the Bidder shall submit upon written request to do so by the Department, a Health and Safety Plan in sufficient detail to demonstrate the necessary competencies and resources to deliver the goods or services all in accordance with the Act, Regulations, and Health and Safety Specification.

2.2.20 CLAIMS ARISING FROM THE SUBMISSION OF BID

The Bidder warrants that it has:

- a) inspected the Specifications and read and fully understood the Conditions of the Contract.
- b) read and fully understood the whole text of the Specifications and Price Schedule and thoroughly acquainted himself with the nature of the goods or services proposed and generally of all matters which may influence the Contract.
- c) visited the site(s) where delivery of the proposed goods will take place, carefully examined existing conditions, the means of access to the site(s), the conditions under which the delivery is to be made, and acquainted himself with any limitations or restrictions that may be imposed by the Department or other Authorities in regard to access and transport of materials, plant, and equipment to and from the site(s) and made the necessary provisions for any additional costs involved thereby.

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- d) requested the Department to clarify the actual requirements of anything in the Specifications and Price Schedule, the exact meaning or interpretation of which is not clearly intelligible to the Bidder.
- e) received any notices to the Bid documents that have been issued in accordance with the Department's Supply Chain Management Policy.

The Department will therefore not be liable for the payment of any extra costs or claims arising from the submission of the Bid.

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2.3 THE DEPARTMENT’S UNDERTAKINGS

2.3.1 RESPOND TO REQUESTS FROM THE BIDDER

2.3.1.1 Unless otherwise stated in the Bid Conditions, respond to a request for clarification received up to one week (where possible) before the Bid closing time stated on the front page of the Bid document.

2.3.1.2 The Department’s representative for the purpose of this Bid is stated on the General Bid Information page.

2.3.2 ISSUE NOTICES

If necessary, issue addenda in writing that may amend or amplify the Bid documents to each Bidder during the period from the date the Bid documents are available until one week before the Bid closing time stated in the Bid Data. The Department reserves its rights to issue addenda less than one week before the Bid closing time in exceptional circumstances. If, as a result, a Bidder applies for an extension to the closing time stated on the front page of the Bid document, the Department may grant such extension and, shall then notify all Bidders who drew documents.

Notwithstanding any requests for confirmation of receipt of notices issued, the Bidder shall be deemed to have received such notices if the Department can show proof of transmission thereof via electronic mail, facsimile, or registered post.

2.3.3 OPENING OF BID SUBMISSIONS

2.3.3.1 Unless the one-envelope system is to be followed, open Bid submissions in the presence of Bidders’ agents who choose to attend at the time and place stated in the Bid conditions.

Bids will be opened immediately after the closing time for receipt of Bids as stated on the front page of the Bid document, or as stated in any Notice extending the closing date and at the closing venue as stated in the General Bid Information.

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2.3.3.2 Announce at the meeting held immediately after the opening of Bid submissions, at the closing venue as stated in the General Bid Information, the name of each Bidder whose Bid offer is opened and, where possible, the prices and the preferences indicated.

2.3.3.3 Make available a record of the details announced at the Bid opening meeting on the Department's website <https://www.dws.gov.za/Tenders/tenders.aspx>

2.3.4 NON-DISCLOSURE

Not disclose to Bidders, or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of Bid offers and recommendations for the award of a contract, until after the award of the contract to the successful Bidder.

2.3.5 GROUNDS FOR REJECTION AND DISQUALIFICATION

Determine whether there has been any effort by a Bidder to influence the processing of Bid offers and instantly disqualify a Bidder (and his Bid offer) if it is established that he engaged in corrupt or fraudulent practices.

2.3.6 TEST FOR RESPONSIVENESS

2.3.6.1 The Department's Bid Evaluation Committee will determine after opening whether each Bid offer was properly received:

- a) complies with the requirements of these Conditions of Bid,
- b) has been properly and fully completed and signed, and
- c) is responsive to the other requirements of the Bid documents.

2.3.6.2 A responsive Bid is one that conforms to all the terms, conditions, and specifications of the Bid documents without material deviation or qualification. A material deviation or qualification is one which, in the Department's opinion, would:

- a) detrimentally affect the scope, quality, or performance of the goods, services, or supply identified in
- b) the Specifications,
- c) significantly change the Department's or the Bidder's risks and responsibilities under the contract, or

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- d) affect the competitive position of other Bidders presenting responsive Bids, if it were to be rectified.

Reject a non-responsive Bid offer, and do not allow it to be subsequently made responsive by correction or withdrawal of any material deviation or qualification.

The Department reserves the right to accept a Bid offer that does not, in the Department's opinion, materially and/or substantially deviate from the terms, conditions, and specifications of the Bid documents.

2.3.6.3 Evaluation Criteria

The 90/10 preference points systems for the Bids with a Rand value above R50 million as detailed in Clause 2.3.10.4 will be applied to evaluate this Bid. The lowest acceptable Bid will score 90 points for prices and a maximum of points will be awarded for attaining the specific goals as advised in the Bid

The Department has adopted a Five (5) Phase Evaluation Process. The evaluation process includes the following phases:

Phase 1: Mandatory Requirements

Phase 2: Administrative Compliance

Phase 3: Functionality Compliance

Phase 4: Price (energy tariff) and Preference (specific goals)

Phase 5: Method Evaluation

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PHASE 1: MANDATORY REQUIREMENTS

Failure to submit any of the following items with the Bid will be considered a major deviation and will render your Bid non-responsive and will be disqualified to be considered for further evaluation.

No.	Criteria	Yes	No
1	Bidders must attend the Compulsory Clarification meeting and bidders' names must appear on the attendance register.	X	
2	Completed and Signed Form of Guarantee/Performance Security. (Volume III, Part 9)	X	
3.	Completed and Signed Insurance Brokers' Warranty (Volume III, Part 11)	X	
4.	Professional Registration Certificates for the Lead Project Manager, Technical Leader, and Commercial leader (Certified Copy)	X	
5.	ECSA or equivalent and internationally recognized professional registration for the Project Team members (Certified Copy)	X	

PHASE 2: ADMINISTRATIVE COMPLIANCE

The Bid evaluation will be based on the information provided in the Bid Documents. Bidders are required to comply with the following listed below. Non-compliance with any of the below-listed criteria may disqualify the Bidder.

No.	Criteria	Yes	No
1	Complete, sign, and submit all the Returnable Documents as indexed in Volume II, Part 3-6	X	
2	Companies must be registered with the National Treasury's Central Supplier Database and submit a CSD Report. Provide MAAA number on SBD1	X	
3.	Active registration with the Company Intellectual Property Commission (to be verified through CSD and CIPC). Attach a copy of the CIPC / CIPRO certificate.	X	
4.	Tax compliance status pin code (to be verified through CSD and SARS). Attach Tax Compliance status PIN page	X	
5.	A valid copy of the B-BBEE Status Level Verification Certificate or a valid original sworn affidavit (failure to submit, the Bidder will forfeit the relevant points allowable for B-BBEE under specific goals)	X	
6	Complete, sign, submit SDB1, SBD3.2, SBD 4, SBD 6.1,	X	

PHASE 3: FUNCTIONALITY COMPLIANCE

The functionality compliance criteria pertaining to the relevant experience of key personnel, track record of the Bidder as well as the Socio-Economic Development (SED) Plan are to be read in conjunction with Schedule 15A, Schedule 15B, and Schedule 15C, respectively and are to be completed.

Only those Bids submitted by Bidders who achieve the minimum score for functionality as stated below will be declared responsive.

The score obtained in the functionality criteria will be used for the following formula;

$$N_Q = 100 \times \frac{S_o}{M_s}$$

Where:

N_Q is the number of tender evaluation points awarded for the functionality offered;

S_o is the score for functionality criteria allocated to the submission under consideration;

M_s is the maximum possible score for the functionality criteria (100).

Functionality is the terminology used to define the technical ability of the Bidder, based on experience, to deliver the required product in accordance with the specialised quality, reliability and functionality.

Points allocated for functionality shall be evaluated in accordance with the criteria listed below table. An overall minimum threshold of 70 (M_s) points out of a total of 100 (M_s) must be achieved for the tender to be eligible.

See Volume II returnable annexure (as indicated below) for applicable documents with details on point allocation for the sub-criteria's.

The description of the functionality criteria and the maximum possible score for each is shown in the table below. The score achieved for functionality will be the sum of the scores achieved, in the evaluation process, for the individual criteria.

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Functionality Criteria	Applicable values/points	Weight
THE EXPERTISE OF KEY PERSONNEL	Lead PM Related Experience – Max 5 points <ul style="list-style-type: none">▪ Commercial Lead-Related Experience – Max 5 points▪ Technical Lead-Related Experience – Max 5 points	40
TRACK RECORD AND EXPERIENCE OF COMPANY, CONSORTIUM, OR JOINT VENTURE	<ul style="list-style-type: none">▪ Evidence of successful participation in completed energy procurement programs, including the establishment of power plant – Max 5 points	40
COMPREHENSIVE COMMUNITY SOCIO-ECONOMIC DEVELOPMENT PLAN	<ul style="list-style-type: none">▪ Comprehensive SED Plan to create opportunities; develop partnerships, enhance self-efficacy, and promote sustainable livelihoods within communities	20
Total		100

The minimum qualifying score for functionality is **70 out of a maximum of 100**.

Where the entity Bidding is a Joint Venture, the Bid must be accompanied by a statement describing exactly what aspects of the work will be undertaken by each party to the joint venture.

Bidders shall ensure that all relevant information has been submitted with the Bid offer in the prescribed format to ensure optimal scoring of functionality points for each Evaluation criterion. Failure to provide all information in this bid submission could result in the Bidder not being able to achieve the specified minimum scoring.

A more detailed explanation of the functionality criteria is given below:

1) *The Expertise of Key Personnel*

Bidders must clearly demonstrate relevant expertise in the various areas related to the establishment of a power plant and related energy procurement. This includes the required technical, commercial and project management expertise that allows for the successful conclusion of required activities related to energy procurement, financing and power plant construction. This can be provided in the form of CVs, submitted as part of Schedule 15A. Preferred related experience requirements are detailed below, which will be taken into account during the scoring of the functionality of the Bid submission.

2) *Track Record and Experience of Company, Consortium or Joint Venture*

Bidders must clearly demonstrate previous experience in successfully establishing a power plant and participating in an energy procurement program, such as the one being proposed by the Department. This track record could have been established in a local and/or international setting and must be detailed and submitted as part of Schedule 15B.

3) *Local Community Socio-Economic Development Plan*

Bidders must clearly demonstrate previous experience in successfully establishing an impactful SED Plan that will serve as the conduit through which it will facilitate access, create opportunities; develop partnerships, enhance self-efficacy, and promote sustainable livelihoods within communities, with due consideration for the natural environment.

The SED Plan should demonstrate how it will form the basis for engagement with development stakeholders, operationalization of approved programs, and support for employee community involvement. This should be provided in the form of a standalone report and summarised and submitted as part of Schedule 15C.

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SCORING OF FUNCTIONALITY:

The prompts for judgment and the associated scores used in the evaluation of quality shall be as follows:

Each evaluation criterion will be assessed in terms of five indicators – no response, poor, satisfactory, good and very good. Scores of 0, 40, 70, 90 or 100 will be allocated to no response, poor, satisfactory, good and very good, respectively.

SCORE	RATING	QUALITATIVE INDICATOR OR PROMPT FOR JUDGEMENT		
		<i>Example 1</i> (Proposed Organization and staffing)	<i>Example 2</i> (Approach paper)	<i>Example 3</i> (Knowledge of issues pertinent to the project)
0	No Response	Failed to provide information	Failed to provide information	Failed to provide information
40	Poor	The organization chart is sketchy, the staffing plan is weak in important areas. There is no clarity in the allocation of tasks and responsibilities	The technical approach and/or methodology is poor/is unlikely to satisfy project objectives or requirements. The tenderer has misunderstood certain aspects of the scope of work and does not deal with the critical aspects of the project	Key staff have limited experience with issues pertinent to the project
70	Satisfactory	The organizational chart is complete and detailed, and the technical level and composition of the staffing arrangements are adequate.	The approach is generic and not tailored to address the specific project objectives and methodology. The approach does not adequately deal with the critical characteristics of the project. The quality plan, the manner in which risk is to be managed, etc. is too generic.	Key staff have reasonable experience with issues pertinent to the project.
90	Good	Besides attaining the “satisfactory” rating, staff are well-balanced, i.e. they show good co-ordination, complementary skills, clear and defined duties and	The approach is specifically tailored to address the specific project objectives and methodology and is sufficiently flexible to accommodate changes that might occur during execution. The quality plan and	Key staff have extensive experience with issues pertinent to the project.

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		responsibilities. Some members of the project team have worked together before on limited occasions	approach to managing risk, etc. is specifically tailored to the critical characteristics of the project	
100	Very Good	Besides attaining the “good” rating, the proposed team is well-integrated and several members have worked together extensively in the past.	Besides attaining the “good” rating, the important issues are approached in an innovative and efficient way, indicating that the tenderer has outstanding knowledge of state-of-the-art approaches. The approach paper details ways to improve the project outcomes and the quality of the outputs.	Key staff have outstanding experience with issues pertinent to the project.

The scores of each of the evaluators will be averaged, weighted and then totalled to obtain the final score for quality.

EXAMPLE OF EVALUATION:

CRITERIA	SCORE (OUT OF 0% - 100%)	WEIGHT (POINTS)	TOTAL (A% SCORE x 5 POINTS)
Sub-Criteria	Score according to SANS ISO 10845-3:2022 ed2 Table A.4	Max allowed points for a (per) sub-criteria.	
Example 1	70 score (=70%): Satisfactory	5	= 5 * 70% = 3.5
Example 2	90 score (=90%): Good	20	= 20 * 90% = 18

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The components of this aspect are detailed below, which will be taken into account during the scoring of the functionality of the Bid submission. The Bids will be rated in respect of each criterion on a scale of 1-5, i.e., 1 = Poor, 2= Acceptable, 3 = Good, 4 = Very Good, and 5 = Excellent.

FUNCTIONALITY CRITERIA	EVALUATION CRITERIA	MAXIMUM SCORE	WEIGHT OF THE CRITERION
THE EXPERTISE OF KEY PERSONNEL Demonstrated skill and experience of the following key personnel for the Bid, Lead Project Manager (PM), and Technical and Commercial Leaders. Attach Professional Registration Certificates and CVs of each key Project team member indicating experience, accreditation/affiliation.		15	40
Lead PM Related Experience (Professionally registered with SACPCMP and/or relevant and recognized professional bodies) SCHEDULE 15A TO BE COMPLETED	<ul style="list-style-type: none"> ▪ 10 Years or more – 5 points ▪ Between 8 and 9 years – 4 points ▪ Between 5 and 7 years – 3 points ▪ Between 3 and 4 years – 2 points ▪ Between 1 and 2 years – 1 point ▪ Less than 1 year – 0 points 	5	
Commercial Lead Related Experience (Professionally registered with SAICA/ICA/CIMA and/or relevant recognized professional bodies) SCHEDULE 15A TO BE COMPLETED	<ul style="list-style-type: none"> ▪ 10 Years or more – 5 points ▪ Between 8 and 9 years – 4 points ▪ Between 5 and 7 years – 3 points ▪ Between 3 and 4 years – 2 points ▪ Between 1 and 2 years – 1 point ▪ Less than 1 year – 0 points 	5	
Technical Lead-Related Experience (Professionally registered with ECSA and/or relevant recognized professional bodies)	<ul style="list-style-type: none"> ▪ 10 Years or more – 5 points ▪ Between 8 and 9 years – 4 points ▪ Between 5 and 7 years – 3 points ▪ Between 3 and 4 years – 2 points ▪ Between 1 and 2 years – 1 point ▪ Less than 1 year – 0 points 	5	

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FUNCTIONALITY CRITERIA	EVALUATION CRITERIA	MAXIMUM SCORE	WEIGHT OF THE CRITERION
SCHEDULE 15A TO BE COMPLETED			
TRACK RECORD AND EXPERIENCE OF COMPANY, CONSORTIUM, OR JOINT VENTURE Attach signed reference letter per project/program from the Client		5	40
Evidence of successful participation in completed energy procurement programs, including the establishment of the power plant. SCHEDULE 15B TO BE COMPLETED	<ul style="list-style-type: none"> ▪ 5 or more programs – 5 points ▪ 4 programs – 4 points ▪ 3 programs – 3 points ▪ 2 programs – 2 points ▪ 1 program – 1 point ▪ 0 programs – 0 points 	5	
LOCAL COMMUNITY SOCIO-ECONOMIC DEVELOPMENT PLAN		10	20
Development Needs and Plans SCHEDULE 15C TO BE COMPLETED	<ul style="list-style-type: none"> ▪ Demonstrate planned partnership with the local Community for the duration of the PPA ▪ 5 or more Sectors/Thematic Areas – 10 points ▪ 4 Sectors/Thematic Areas – 8 points ▪ 3 Sectors/Thematic Areas – 6 points ▪ 2 Sectors/Thematic Areas – 4 points ▪ 1 Sector/Thematic Areas – 2 point ▪ 0 Sector/Thematic Areas – 0 points 	10	

The Bid that does not achieve a minimum score of 70% (out of 100) for functionality will not be evaluated further.

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The average score is calculated for each proposal by adding the individual scores awarded by the members of the Bid Evaluation Committee and dividing the total by the number of members.

PHASE 4: PRICE AND PREFERENCE (SPECIFIC GOALS)

The 90/10 Preferential Procurement System will be used in evaluating these bids.

EVALUATION ELEMENT	WEIGHTING (POINTS)
Specific Goals	10
Price (Energy Tariff)	90
Total	100

Price

A maximum of 90 points are allocated for the price on the following basis:

$$N_{FO} = 90 \times \left(1 - \frac{P_t - P_{max}}{P_{max}} \right)$$

Where:

N_{FO} is the number of bid evaluation points awarded for the tariff offer;

P_t is the competitive offer of the tender offer under consideration

P_{max} is the competitive offer of the most favourable comparative offer

PREFERENCE SYSTEM

Up to 10 adjudication points (N_p) will be awarded for specific goals, in accordance with the tables below:

SPECIFIC GOALS	NUMBER OF POINTS TO BE ALLOCATED
Women	2
People with disability	2
Youth (35 and below)	2
Location of the Enterprise (Province)	1
B-BBEE Status Level Contributor from Levels 1 to 2 which are QSE or EME	3
Total Points For Specific Goals	10

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The total number of adjudication points (N_T) shall be calculated as follows:

$$N_T = N_{FO} + N_p$$

Where:

N_{FO} is the number of bid evaluation points awarded for the tariff offer made in accordance with SANS ISO 10845-3:2022 Ed2, (where N_{FO} is a maximum of 90 Points);

N_p is the number of bid evaluation points awarded for the preference points claimed for specific goals in accordance with SANS ISO 10845-3:2022 Ed 2, (where N_p is a maximum of 10 Points);

The terms and conditions of the Preference Schedule shall apply in all respects to the Bid evaluation process and any subsequent contract.

Documents required for verification of the points allocation:

SPECIFIC GOALS	REQUIRED PROOF DOCUMENTS
Women	Full CSD Report
People with disability	Full CSD Report
Youth (35 and below)	Full CSD Report
Location of the Enterprise(Province)	Full CSD Report
B-BBEE Status Level Contributor from Levels 1 to 2 which are QSE or EME	Full CSD Report Valid B-BBEE Certification/Sworn Affidavit Consolidated BEE Certificate in case of Joint Venture

The Definition and measurement of the goals above are as follows:

Women, Disability, and Youth

This will be measured by calculating the pro-rata percentages of ownership of the bidding company which meets this criterion. E.g. Company A has five shareholders, each of whom owns 20% of the Company. Three of the five shareholders meet the criterion, i.e. they are women/disability.youth. therefore, this bidder will obtain 60% of the points allowable for the goal

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Location of the Enterprise

Local equals province. Where the project cuts across more than one province, the Bidder may be located in any of the relevant provinces to obtain the point.

B-BBEE Status Level Contributors from Levels 1 to 2 which are QSE or EME

Measured in terms of normal B-BBEE requirements.

Note: Formula for calculating points for specific goals:

Preference points for entities are calculated on their percentage shareholding in a business, provided that they are actively involved in and exercise control over the enterprise.

The following formula is prescribed:

$$PC = M_{pa} \times \frac{P_{own}}{100}$$

Where:

PC is the points awarded for a specific goal;

M_{pa} is the maximum number of points awarded for ownership in that specific category;

P_{own} is the percentage of equity ownership by the enterprise or business

The responsive Bids of the above phases would thereafter be ranked in the order of ascending order of the tariff (lowest to highest). The successful Bidder for each Pump Station will be chosen on the basis of the above ranking.

PHASE 5: EVALUATION METHOD

Method 4: Financial offer, quality and preference. This method shall apply to the evaluation of this tender.

The procedure for the evaluation of responsive bids is Method 4 (Financial offer, quality and preference). The total number of tender evaluation points (T_{EV}) shall be determined in accordance with the following formula:

$$T_{EV} = f_1(N_{FO} + N_P) + f_2N_Q$$

Where

f_1 and f_2 are fractions

$$f_1 = 1 - f_2$$

$$f_2 = 0.5$$

N_{FO} is the number of tender evaluation points awarded for the financial offer made in accordance with SANS ISO 10845-3: 2022 Ed 2, (where N_{FO} is a maximum of 90 points);

N_P is the number of tender evaluation points awarded for preference points claimed for specific goals in accordance with SANS ISO 10845-3: 2022 Ed 2, (where N_P is a maximum of 10 points);

N_Q is the number of tender evaluation points awarded for functionality (quality) in accordance with SANS ISO 10845-3:2022 Ed 2, (where N_Q is a maximum of 100 points).

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Example:

For example, if a Tenderer scores the following:

75 points for pricing (N_{FO}) out of 90;

6 points for preferencing (N_P) out of 10; and

70 points for functionality (quality) (N_Q) out of 100

And the fractions are $f_1 = f_2 = 0.5$

WHERE THE WEIGHTS ARE:	EXAMPLE VALUES SCORED
Total points for the financial offer (N_{FO}) = 90	75
$N_P = 10$	6
$N_Q = 100$	70
CALCULATION:	EXAMPLE OF CALCULATION
Where: ($f_1(N_{FO} + N_P)$)	$0.5 * (75 + 6) = 40.5$
And where: $f_2(N_Q)$	$0.5 * 70 = 35$
Total Tender evaluation points (TEV) → 100	75.5

2.3.7 ARITHMETICAL ERRORS, OMISSIONS, AND DISCREPANCIES

2.3.7.1 Check the responsive Bids for:

- a) the gross misplacement of the decimal point in any unit rate;
- b) omissions made in completing the Price Schedule; or
- c) arithmetic errors in:
 - I. line-item totals resulting from the product of a unit rate and a quantity in the Price Schedule; or
 - II. the summation of the prices; or
 - III. calculation of individual rates.

2.3.7.2 The Department must correct the arithmetical errors in the following manner:

- a) Where there is a discrepancy between the amounts in words and amounts in figures, the amount in words shall govern.
- b) If pricing schedules apply and there is an error in the line item total resulting from the product of the unit rate and the quantity, the line item total shall govern and the rate shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line item total as Bided shall govern, and the unit rate shall be corrected.

- c) Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the Bidder's addition of prices, the total of the prices shall govern and the Bidder will be asked to revise the selected item prices (and their rates if Price Schedules apply) to achieve the Bided total of the prices.

Consider the rejection of a Bid offer if the Bidder does not correct or accept the correction of the arithmetical error in the manner described above.

2.3.7.3 In the event of Bided rates or lump sums being declared by the Department to be unacceptable to it because they are not priced, either excessively low or high or not in proper balance with other rates or lump sums, the Bidder may be required to produce evidence and advance arguments in support of the Bided rates or lump sums objected to.

If, after submission of such evidence and any further evidence requested, the Department is still not satisfied with the Bided rates or lump sums objected to, it may request the Bidder to amend these rates and lump sums along the lines indicated by it.

The Bidder will then have the option to alter and/or amend the rates and lump sums objected to and such other related amounts as agreed on by the Department, but this shall be done without altering the Bid offer in accordance with this Clause.

Should the Bidder fail to amend his Bid in a manner acceptable to and within the time stated by the Department, the Department may declare the Bid as non-responsive.

2.3.8 CLARIFICATION OF A BID OFFER

The Department may, after the closing date, request additional information or clarification from Bidders, in writing on any matter affecting the evaluation of the Bid offer or that could give rise to ambiguity in a contract arising from the Bid offer, which written request and related response shall not change or affect their competitive position or the substance of their offer. Such request may only be made in writing by the Director: Supply Chain Management using any means as appropriate.

2.3.9 EVALUATION OF BID OFFERS

2.3.9.1 General

2.3.9.1.1 Reduce each responsive Bid offer to a comparative price and evaluate them using the Bid evaluation methods and associated evaluation criteria and weightings that are specified in the Bid conditions.

2.3.9.1.2 For evaluation purposes only, the effects of the relevant contract price adjustment methods will be considered in the determination of comparative prices as follows:

- a) If the selected method is based on Bidders supplying rates or percentages for outer years, comparative prices would be determined over the entire contract period based on such rates or percentages.
- b) If the selected method is based on a formula, indices, coefficients, etc. that is the same for all Bidders during the contract period, comparative prices would be the prices as Bided for year one.
- c) If the selected method is based on a formula, indices, coefficients, etc. that varies between Bidders, comparative prices would be determined over the entire contract period based on published indices relevant during the 12 months prior to the closing date of Bids.
- d) If the selected method includes imported content requiring a rate of exchange variation, comparative prices would be determined based on the exchange rates Bided for the prices as Bided for year one. The rand equivalent of the applicable currency 14 days prior to the closing date of the Bid will be used (the Department will check all quoted rates against those supplied by its own bank).
- e) If the selected method is based on suppliers' price lists, comparative prices would be the prices as Bided for year one.
- f) If the selected method is based on suppliers' price lists and/or rate of exchange, comparative prices would be determined as Bided for year one whilst taking into account the Bided percentage subject to the rate of exchange (see sub-Clause (d) for details on the calculation of the rate of exchange).

2.3.9.1.3 Where the scoring of functionality forms part of a Bid process, each member of the Bid Evaluation Committee must individually score functionality. The individual scores must then be interrogated and calibrated if required where there are significant discrepancies.

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The individual scores must then be added together and averaged to determine the final score.

2.3.9.2 Decimal places

Score financial offers, preferences, and functionality, as relevant, to two decimal places.

2.3.9.3 Scoring of Bids (price and preference)

2.3.9.3.1 Points for the price will be allocated in accordance with the formula set out in this Clause and as set out in the Price Schedule (Volume II, Part 5):

1. The award will be made to those Bidders with the highest scoring Bids comprised of 90 points for price and 10 points for specific goals per point of connection.
2. The maximum R/kWh rate the Department will pay for electricity under the PPA will be limited to the equivalent of the prevailing Eskom Transmission local authority tariff applicable to the Department at the time of award, including all kWh-based levies. These representative tariffs will be determined by the Department and communicated to all Bidders.
3. The R/kWh impact of the operation of the power plant on the network technical losses will be determined prior to the issuance of the cost estimate letters and should be taken into account during the determination of the offered price by the Bidder.

2.3.9.3.2 Points for preference will be allocated in accordance with the provisions of the Preference Schedule and the table in this Clause.

2.3.9.3.3 The terms and conditions of the Preference Schedule, as it relates to preference, shall apply in all respects to the Bid evaluation process and any subsequent contract.

2.3.9.4 Risk Analysis

Notwithstanding compliance with regard to any requirements of the Bid, the Department will perform a risk analysis in respect of the following:

- a) the reasonableness of the financial offer
- b) the reasonableness of unit rates and prices
- c) the Bidder's ability to fulfil its obligations in terms of the Bid document, that is, that the Bidder can demonstrate that he/she possesses the necessary

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professional and technical qualifications, professional and technical competence, financial resources, equipment, and other physical facilities, managerial capability, reliability, capacity, experience, reputation, personnel to perform the contract, etc.; the Department reserves the right to consider a Bidder's existing contracts with the Department in this regard

- d) any other matter relating to the submitted Bid, the Bidding entity, matters of compliance, verification of submitted information and documents, etc.

The conclusions drawn from this risk analysis will be used by the Department in determining the acceptability of the Bid offer.

No Bidder will be recommended for an award unless the Bidder has demonstrated to the satisfaction of the Department that he/she has the resources and skills required.

2.3.10 NEGOTIATIONS WITH PREFERRED BIDDERS

The Department may negotiate the final terms of a contract with Bidders identified through a competitive bidding process as preferred Bidders provided that such negotiation:

- a) does not allow any preferred Bidder a second or unfair opportunity;
- b) is not to the detriment of any other Bidder; and
- c) does not lead to a higher price (lower tariff) than the Bid as submitted.

If negotiations fail to result in acceptable contract terms, the Department (or his delegated authority) may terminate the negotiations and cancel the Bid, or invite the next ranked Bidder for negotiations. The original preferred Bidder should be informed of the reasons for the termination of the negotiations. If the decision is to invite the next highest-ranked Bidder for negotiations, the failed earlier negotiations may not be reopened by the Department.

Minutes of any such negotiations shall be kept for record purposes.

The provisions of this Clause will be equally applicable to any invitation to negotiate with any other Bidders. In terms of the Preferential Procurement Regulations, 2022, Bids must be cancelled in the event that negotiations fail to achieve a market-related price with any of the three highest-scoring Bidders.

2.3.11 ACCEPTANCE OF BID OFFER

Notwithstanding any other provisions contained in the Bid document, the Department reserves the right to:

- 2.3.11.1 Accept a Bid offer(s) that does not, in the Department's opinion, materially and/or substantially deviate from the terms, conditions, and specifications of the Bid document.
- 2.3.11.2 Accept the whole Bid or part of a Bid or any item or part of any item or items from multiple manufacturers or accept more than one Bid (in the event of a number of items being offered), and the Department is not obliged to accept the lowest or any Bid.
- 2.3.11.3 Accept the Bid offer(s), if in the opinion of the Department, it does not present any material risk and only if the Bidder(s):
 - a) is not under restrictions, has any principals who are under restrictions, or is not currently a supplier to whom notice has been served for abuse of the supply chain management system, preventing participation in the Department's procurement,
 - b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract,c) has the legal capacity to enter into the contract,
 - c) is not insolvent, in receivership, under Business Rescue as provided for in Chapter 6 of the Companies Act, 2008, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing, complies with the legal requirements, if any, stated in the Bid data, and

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- d) is able, in the opinion of the Department, to perform the contract free of conflicts of interest.

If an award cannot be made in terms of anything contained herein, the Department reserves the right to consider the next ranked Bidder(s).

- 2.3.11.4 Not to make an award, or revoke an award already made, where the implementation of the contract may result in reputational risk or harm to the Department as a result of (inter alia):

- a) reports of poor governance and/or unethical behaviour;
- b) association with the known families of notorious individuals;
- c) poor performance issues, known to the Department;
- d) negative social media reports; and
- e) adverse assurance (e.g. due diligence) report outcomes.

- 2.3.11.5 The Department reserves the right to nominate an alternative Bidder at the time when an award is made and in the event that a contract is terminated during the execution thereof, the Department may consider the award of the contract, or non-award, to the alternative Bidder in terms of the procedures included its SCM Policy.

2.3.12 PREPARE CONTRACT DOCUMENTS

- 2.3.12.1 If necessary, revise documents that shall form part of the contract and that were issued by the Department as part of the Bid documents to take account of:

- a) notices issued during the Bid period,
- b) inclusion of some of the returnable documents, and
- c) other revisions agreed between the Department and the successful Bidder.

- 2.3.12.2 Complete the schedule of deviations attached to the form of offer and acceptance, if any.

2.3.13 NOTICE TO SUCCESSFUL AND UNSUCCESSFUL BIDDERS

- 2.3.13.1 Before accepting the Bid of the successful Bidder the Department shall notify the successful Bidder in writing of the decision of the Department's Bid Adjudication Committee to award the Bid to the successful Bidder. No rights shall accrue to the successful Bidder in terms of this notice.

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2.3.13.2 The Department shall, at the same time as notifying the successful Bidder of the Bid Adjudication Committee's decision to award the Bid to the successful Bidder, also give written notice to the other Bidders informing them that they have been unsuccessful.

2.3.14 PROVIDE WRITTEN REASONS FOR ACTIONS TAKEN

Provide upon request written reasons to Bidders for any action that is taken in applying these Conditions of Bid, but withhold information which is not in the public interest to be divulged, which is considered to prejudice the legitimate commercial interests of Bidders or might prejudice fair competition between Bidders.

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REQUEST FOR PROPOSALS (RFP)

FOR

THE SELECTION OF INDEPENDENT POWER PRODUCERS

(BIDDERS)

FOR

ENERGY AUGMENTATION AT SELECTED GOVERNMENT

WATERWORKS INFRASTRUCTURE

FOR

A 40-YEARS OPERATIONAL PERIOD

ON

DESIGN-BUILD-FINANCE-OWN-OPERATE (DBFOO) MODE

VOLUME II: RETURNABLES DOCUMENTS AND SCHEDULES

Department of Water and Sanitation: Request for Proposals (RFP) for the selection of Independent Power Producers (BIDDERS) for energy augmentation at selected government waterworks infrastructure for a 40-year operational period in Design-Build-Finance –Own-Operate (DBFOO) mode

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3. DETAILS OF THE BID

Please index as per the below table

SECTION 1

CHECKLIST OF RETURNABLE SCHEDULES AND DOCUMENTS

Please adhere to the following instructions

- Tick in the relevant block below, the documents and schedules that form part of your response
- Ensure that the following documents are completed and signed where applicable
- Use the prescribed sequence in attaching the annexes that complete the Bid Document
- Should all of these documents not be included, the Bidder may be disqualified on the basis of non-compliance/ non-responsiveness

YES	NO	THE BID / REQUEST FOR QUOTATION RETURNABLE SCHEDULE OR DOCUMENT
(The following statutory documents should be completed and signed/ submitted)		
<input type="checkbox"/>	<input type="checkbox"/>	SBD 1: Invitation to Bid
<input type="checkbox"/>	<input type="checkbox"/>	Form of Offer and Acceptance
<input type="checkbox"/>	<input type="checkbox"/>	SBD 3.1: Pricing Schedule
<input type="checkbox"/>	<input type="checkbox"/>	Schedule 1: Certificate of Authority for Signature
<input type="checkbox"/>	<input type="checkbox"/>	Schedule 2: Declaration for Procurement above R 10 Million
<input type="checkbox"/>	<input type="checkbox"/>	Schedule 3: SBD 6.1: Preference Claim Form in Terms of Preferential Procurement Regulations 2022
<input type="checkbox"/>	<input type="checkbox"/>	Schedule 4: SBD4: Declaration of Interest form
<input type="checkbox"/>	<input type="checkbox"/>	Schedule 5: Conflict of Interest Declaration
<input type="checkbox"/>	<input type="checkbox"/>	Schedule 8: Site Inspection Declaration
<input type="checkbox"/>	<input type="checkbox"/>	Schedule 13: List of other Documents Attached by Bidder
<input type="checkbox"/>	<input type="checkbox"/>	Schedule 14: Record of Addenda issued to Bidders
<input type="checkbox"/>	<input type="checkbox"/>	Schedule 15: Information to be Provided with the Bid
<input type="checkbox"/>	<input type="checkbox"/>	Proof of registration with the National Treasury Central Supplier Database

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SBD1

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF Department/ PUBLIC ENTITY)					
BID NUMBER:	DWS17-0923WTE	CLOSING DATE:	29 March 2024	CLOSING TIME:	11:00 am
DESCRIPTION	REQUEST FOR PROPOSAL (RFP) FOR THE SELECTION OF INDEPENDENT POWER PRODUCERS (BIDDERS) FOR ENERGY AUGMENTATION AT SELECTED GOVERNMENT WATERWORKS INFRASTRUCTURE FOR A 40-YEAR OPERATIONAL PERIOD IN DESIGN-BUILD-FINANCE-OWN-OPERATE (DBFOO) MODE				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
THE BID BOX. AT THE ENTRANCE OF THE ZWAMADAKA BUILDING					
157 FRANCIS BAARD STREET, PRETORIA 0001					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Bid Office		CONTACT PERSON	Mr A Thobejane	
TELEPHONE NUMBER	012 336 8241/ 6562/ 8151/ 7780		TELEPHONE NUMBER	012 336 7869	
FACSIMILE NUMBER	N/A		FACSIMILE NUMBER	N/A	
E-MAIL ADDRESS	Bidenquirieswte@DWS.gov.za		E-MAIL ADDRESS	Thobejanea@DWS.gov.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					

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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 THE BIDDING FOREIGN SUPPLIERS			
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?		<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE A BRANCH IN THE RSA?		<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?		<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?		<input type="checkbox"/> YES <input type="checkbox"/> NO	
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?		<input type="checkbox"/> YES <input type="checkbox"/> NO	
IF THE ANSWER IS “NO” TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.			

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SBD1

PART B TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.
1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
1.4. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).
2. TAX COMPLIANCE REQUIREMENTS
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.6 WHERE NO TCS 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:

NOTE

Blacklisted companies appearing on the National Treasury database and prohibited from conducting business with public entities, shall not be considered.

For verification, the Department reserves the right to conduct site visits and interview officials whose CVs have been submitted as part of this Bid.

Late, Faxed or emailed Bids or part thereof, shall not be considered

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4. FORM OF OFFER AND ACCEPTANCE

THE SELECTION OF INDEPENDENT POWER PRODUCERS (BIDDERS) FOR ENERGY AUGMENTATION AT SELECTED GOVERNMENT WATERWORKS INFRASTRUCTURE FOR A 40-YEAR OPERATIONAL PERIOD IN DESIGN-BUILD-FINANCE-OWN-OPERATE (DBFOO) MODE

OFFER: (TO BE FILLED IN BY BIDDER):

Required Details (Please provide applicable details in full):

Name of Tendering Entity* ("the tenderer")	
Trading as (if different from above)	

AND WHO IS represented herein by: (full names of signatory)

duly authorised to act on behalf of the tenderer in his capacity as: (title/ designation)

HEREBY AGREES THAT by signing the Form of Offer and Acceptance, the tenderer:

1. confirms that it has examined the documents listed in the Index (including Schedules and Annexures) and has accepted all the Conditions of Tender;
2. confirms that it has received and incorporated any and all notices issued to tenderers issued by the Department;
3. confirms that it has satisfied itself as to the correctness and validity of the tender offer; that the price(s) and rate(s) offered to cover all the goods and/or services specified in the tender documents; that the price(s) and rate(s) cover all its obligations and accepts that any mistakes regarding price(s), rate(s) and calculations will be at its own risk;
4. offers to supply all or any of the goods and/or render all or any of the services described in the tender document to the Department in accordance with the:
 - 4.1 terms and conditions stipulated in this tender document;
 - 4.2 specifications stipulated in this tender document; and
 - 4.3 at the prices as set out in the Price Schedule.
5. accepts full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on it in terms of the Contract.

.....
Signatures(s)

.....
Print Name(s)
On behalf of the Bidder (duly authorised)

INITIALS	OF	Department

.....
Date

Department of Water and Sanitation: Request for Proposals (RFP) for the selection of Independent Power Producers (BIDDERS) for energy augmentation at selected government waterworks infrastructure for a 40-year operational period in Design-Build-Finance –Own-Operate (DBFOO) mode

FORM OF OFFER AND ACCEPTANCE (Continue)

BID: THE SELECTION OF INDEPENDENT POWER PRODUCERS (BIDDERS) FOR ENERGY AUGMENTATION AT SELECTED GOVERNMENT WATERWORKS INFRASTRUCTURE FOR A 40-YEAR OPERATIONAL PERIOD IN DESIGN-BUILD-FINANCE-OWN-OPERATE (DBFOO) MODE

ACCEPTANCE (TO BE FILLED IN BY THE DEPARTMENT OF WATER AND SANITATION)

By signing this part of this form of offer and acceptance, the Department identified below accepts the Bidder's offer. In consideration thereof, the Department shall pay the supplier the amount due in accordance with the conditions of the contract. Acceptance of the tenderer's offer shall form an agreement between the Department and the tenderer upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract are contained in:

- (7) & (8): Special and General Conditions of Tender
- (5): Price schedule
- (13): Specifications

and drawings and documents or parts thereof, which may be incorporated by reference into the above-listed Parts.

Deviations from and amendments to the documents listed in the tender data and any addenda thereto as listed in the returnable schedules as well as any changes to the terms of the offer agreed by the tenderer and the Department during this process of offer and acceptance are contained in the schedule of deviations attached to and forming part of this form of offer and acceptance. No amendments to or deviations from said documents are valid unless contained in this schedule.

The tenderer shall within two weeks after receiving a completed copy of this agreement, including the schedule of deviations (if any), contact the Department to arrange the delivery of any securities, bonds, guarantees, proof of insurance and any other documents to be provided in terms of the conditions of contract identified in the special contract conditions. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

Notwithstanding anything contained herein, this agreement comes into effect on the date when the parties have signed the table below and confirm receipt from the Department of one fully completed original copy of this agreement, including the schedule of deviations (if any). The tenderer (now supplier) shall within five working days of the agreement coming into effect notify the Department in writing of any reason why he cannot accept the contents of this agreement as a complete and accurate memorandum thereof, failing which the agreement presented to the contractor shall constitute the binding contract between the parties.

<i>The Parties</i>	<i>Department</i>	<i>Supplier</i>
Business Name		
Business Registration		
Tax number (VAT)		
Physical Address		
Accepted contract sum including tax		
Accepted contract duration		
Signed – who by signature hereto warrants authority		
Name of signatory		
Signed: Date		
Signed: Location		
Signed: Witness		
Name of Witness		

Department of Water and Sanitation: Request for Proposals (RFP) for the selection of Independent Power Producers (BIDDERS) for energy augmentation at selected government waterworks infrastructure for a 40-year operational period in Design-Build-Finance –Own-Operate (DBFOO) mode

FORM OF OFFER AND ACCEPTANCE (Continue)

SCHEDULE OF DEVIATIONS (TO BE FILLED IN BY THE DEPARTMENT OF WATER AND SANITATION)

Notes:

1. The extent of deviations from the tender documents issued by the Department before the tender closing date is limited to those permitted in terms of the conditions of the Bid.
2. A Bidder's cover letter shall not be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid, become the subject of agreements reached during the process of offer and acceptance, the outcome of such agreement shall be recorded here.
3. Any other matter arising from the process of offer and acceptance either as a confirmation, clarification, or change to the tender documents and which it is agreed by the Parties becomes an obligation of the contract shall also be recorded here.
4. Any change or addition to the tender documents arising from the above agreements and recorded here shall also be incorporated into the final draft of the Contract.

1	Subject
	Details

2	Subject
	Details

3	Subject
	Details

4	Subject
	Details

By the duly authorized representatives signing this agreement, the Department and the tenderer agree to and accept the foregoing schedule of deviations as the only deviations from and amendments to this tender document and addenda thereto as listed in the returnable schedules, as well as any confirmation, clarification or changes to the terms of the offer agreed by the tenderer and the Department during this process of offer and acceptance.

It is expressly agreed that no other matter whether in writing, oral communication, or implied during the period between the issue of the tender documents and the receipt by the tenderer of a completed signed copy of this Agreement shall have any meaning or effect in the contract between the parties arising from this agreement.

Department of Water and Sanitation: Request for Proposals (RFP) for the selection of Independent Power Producers (BIDDERS) for energy augmentation at selected government waterworks infrastructure for a 40-year operational period in Design-Build-Finance –Own-Operate (DBFOO) mode

5 PRICE SCHEDULE

Pricing Instructions:

Only those Bidders that pass the third phase of the tender evaluation (Clause 2.2.1.1.6) will be priced as per below:

- 5.1 State the rates and prices in Rand unless instructed otherwise in the tender conditions.
- 5.2 Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes (except Value Added Tax (VAT), and other levies payable by the successful tenderer, such duties, taxes, and levies being those applicable 14 days before the closing time stated in the General Tender Information.
- 5.3 All prices tendered must include all expenses, disbursements, and costs (e.g. transport, accommodation etc.) that may be required for the execution of the tenderer's obligations in terms of the Contract, and shall cover the cost of all general risks, liabilities, and obligations set forth or implied in the Contract as well as overhead charges and profit (in the event that the tender is successful). All prices tendered will be final and binding.
- 5.4 All prices shall be tendered in accordance with the units specified in this schedule.
- 5.5 Where a value is given in the Quantity column, a Rate and Price (the product of the Quantity and Rate) are required to be inserted in the relevant columns.
- 5.6 The successful tenderer is required to perform all tasks listed against each item. The tenderer must therefore tender prices/rates on all items as per the section in the Price Schedule. An item against which no rate is/are entered, or if anything other than a rate or a nil rate (for example, a zero, a dash, or the word "included" or abbreviations thereof) is entered against an item, it will also be regarded as a nil rate having been entered against that item, i.e. that there is no charge for that item. The Tenderer may be requested to clarify nil rates or items regarded as having nil rates, and the Department may also perform a risk analysis with regard to the reasonableness of such rates.
- 5.7 Provide fixed rates and prices for the duration of the contract that is not subject to adjustment except as otherwise provided for in Clause 17 of the Conditions of Contract and as amplified in the Special Conditions of Contract.
- 5.8 A detailed pricing and financial breakdown must be included in the proposal. The Department will not provide any financial assistance in any regard to any Bidders. All costs associated with the project including, but not limited to, site development, servicing costs, and operation and maintenance cost will be for the developer. The Department will only pay for the power received as per the pricing submitted by the Bidder. The Department will be the only purchaser of all generations.
- 5.9 Bidders' tender prices must include all cabling and associated work including the jointing of the cables up to the circuit breaker bushings of the point of connection as well as any infrastructure upgrades as required by the Department to accommodate connection of the Bidder's generation facility. The cost of these upgrades will be communicated to the Bidders whose projects passed the first stage of the Bidding process and prior to the closing of the second Bid stage.

Table 1: Pricing of generation summary.

Item	Description/Value	Units
Technology		N/A
Price (R/kWh)		ZAR Cents
Installation Size		MWp AC/ MVA
Pump Station Name		N/A

Prices will increase on the first of April every year in line with the National Consumer Price Index (CPI). The indexation of energy prices is detailed in the accompanying PPA (Schedule 1 Part 3)

INITIALS OF DEPARTMENT OFFICIALS		

Department of Water and Sanitation: Request for Proposals (RFP) for the selection of Independent Power Producers (BIDDERS) for energy augmentation at selected government waterworks infrastructure for a 40-year operational period in Design-Build-Finance –Own-Operate (DBFOO) mode

6 SUPPORTING SCHEDULES

SCHEDULE 1: CERTIFICATE OF AUTHORITY FOR SIGNATORY

Indicate the status of the tenderer by ticking the appropriate box hereunder. The tenderer must complete the certificate set out below for the relevant category, and attach their Registration Certificates for Companies, Close Corporations and Partnerships, or Agreements and Powers of Attorney for Joint Ventures, or ID documents to the page provided at the end of this form.

(I) COMPANY	(II) CLOSE CORPORATION	(III) PARTNERSHIP	(IV) JOINT VENTURE	(V) SOLE PROVIDER

(I) CERTIFICATE FOR COMPANY

I,chairperson of the Board of Directors of hereby confirm that by resolution of the Board (Copy attached) taken on 20....., Mr/Ms acting in the capacity of, was authorized to sign all documents in connection with the tender for Contract No..... and any contract resulting from it, on behalf of the company.

Chairman:

As Witness: 1. _____

2. _____

Date: _____

(II) CERTIFICATE FOR CLOSE CORPORATION

We, the undersigned, being the key members in the business trading ashereby authorize Mr./Ms acting in the capacity of, to sign all documents in connection with the tender for Contract No and any contract resulting from it, on our behalf.

NAME	ADDRESS	SIGNATURE	DATE

Note: This certificate is to be completed and signed by all of the key members upon whom rests the direction of the affairs of the Close Corporation as a whole.

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(III). CERTIFICATE FOR PARTNERSHIP

We, the undersigned, being the key partners in the business trading as hereby authorize Mr./Ms.....acting in the capacity of to sign all documents in connection with the tender for Contract No and any contract resulting from it, on our behalf.

NAME	ADDRESS	SIGNATURE	DATE

Note: This certificate is to be completed and signed by all of the key partners upon whom rests the direction of the affairs of the Partnership as a whole.

(IV) CERTIFICATE FOR JOINT VENTURE

We, the undersigned, are submitting this tender offer in Joint Venture and hereby authorize Mr/Ms authorized signatory of the company, acting in the capacity of lead partner, to sign all documents in connection with the tender offer for Contract No and any contract resulting from it, on our behalf. This authorization is evidenced by the attached power of attorney signed by legally authorized signatories of all the partners to the Joint Venture.

NAME	ADDRESS	SIGNATURE	DATE

Note: This certificate/Agreement is to be completed and signed by all the key partners upon whom rests the direction of the affairs of the Partnership as a whole.

(V) CERTIFICATE FOR SOLE PROPRIETOR

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

Signature of Sole owner:

As Witnesses:

1. _____ 2. _____

Department of Water and Sanitation: Request for Proposals (RFP) for the selection of Independent Power Producers (BIDDERS) for energy augmentation at selected government waterworks infrastructure for a 40-year operational period in Design-Build-Finance –Own-Operate (DBFOO) mode

SCHEDULE 2: DECLARATION FOR PROCUREMENT ABOVE R10 MILLION

If the value of the transaction is expected to exceed R10 million (VAT included) the tenderer shall complete the following questionnaire, attach the necessary documents and sign this schedule:

1. Are you by law required to prepare annual financial statements for auditing? (Please mark with X)

YES		NO	
-----	--	----	--

- 1.1 If YES, submit audited annual financial statements:

- (i) for the past three years, or
(ii) since the date of establishment of the tenderer (if established during the past three years)

By attaching such audited financial statements to the List of other documents attached by the Bidder schedule.

2. Do you have any outstanding undisputed commitments for municipal services towards any municipality in respect of which payment is overdue for more than 30 (thirty) days? (Please mark with X)

YES		NO	
-----	--	----	--

- 2.1 If NO, this serves to certify that the tenderer has no undisputed commitments for municipal services towards any municipality for more than three (3) (three) months in respect of which payment is overdue for more than 30 (thirty) days.

- 2.2 If YES, provide particulars

.....

.....

.....

.....

.....

.....

3. Has any contract been awarded to you by an organ of state during the past five (5) years? (Please mark with X)

YES		NO	
-----	--	----	--

- 3.1 If YES, insert particulars in the table below including particulars of any material non-compliance or dispute concerning the execution of such contract. Alternatively, attach the particulars to the List of other documents attached by the Bidder schedule in the same format as the table below:

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Organ of State	Contract Description	Contract Period	Non-compliance/dispute (if any)

4. Will any portion of the goods or services be sourced from outside the Republic, and if so, what portion and whether any portion of the payment from the Department is expected to be transferred out of the Republic? (Please mark with X)

YES		NO	
-----	--	----	--

4.1 If YES, furnish particulars below

The tenderer hereby certifies that the information set out in this schedule and/or attached hereto is true and correct, and acknowledges that failure to properly and truthfully complete this schedule may result in steps being taken against the tenderer, the tender being disqualified, and/or (in the event that the tenderer is successful) the cancellation of the contract, restriction of the tenderer or the exercise by the Department of any other remedies available to it.

.....

(Signature of the Authorised Signatory)

.....

Date

Print Name:

On behalf of the Bidder (Duly Authorised)

Department of Water and Sanitation: Request for Proposals (RFP) for the selection of Independent Power Producers (BIDDERS) for energy augmentation at selected government waterworks infrastructure for a 40-year operational period in Design-Build-Finance –Own-Operate (DBFOO) mode

SBD 6.1

SCHEDULE 3: PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

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

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS, AND DIRECTIVES APPLICABLE IN RESPECT OF THE BID, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022.

1 GENERAL CONDITIONS

- 1.1 The following preference point systems are applicable to invitations to Bid:
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).
- 1.2 The value of this Bid is estimated to exceed R50 000 000 (all applicable taxes included) and therefore the applicable preference point system for this tender is the 90/10 preference point system;
- 1.3 Points for this Bid shall be awarded for:
- a) Price; and
 - b) Specific Goals.
- 1.4 The maximum points for this Bid are allocated as follows:

	Points
Energy Tariff	90
Specific Goals	10
Total points for Price and Specific Goals	100

- 1.5 Failure on the part of a Bidder to submit proof of documentation required in terms of this tender to claim points for specific goals with the Bid will be interpreted to mean that preference points for specific goals are not claimed.
- 1.6 The Department reserves the right to require 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

The following definitions shall apply to this schedule

1. **“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;
2. **“Price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
3. **“Rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
4. **“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
5. **“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).
6. **“Specific goals”** means specific goals as contemplated in section 2(1)(d) of the PPPFA Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender, and disability including the implementation of programmes of the Reconstruction of Development Programme as published in Government Gazette No. 16085 date 23 November 1994.
7. **“Ownership”** means the percentage of ownership and control, exercised by individuals within an enterprise.
8. **“Disability”** means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being.
 - i. A blind person (in terms of the Blind Persons Act, 1968 (Act no.26 of 1968);
 - ii. A deaf person, whose hearing is impaired to such an extent that he/she cannot use it as a primary means of communication;
 - iii. A person who, as a result of permanent disability, requires a wheelchair, calliper, or crutch to assist him/her to move from one place or another;
 - iv. A person who requires an artificial limb; or
 - v. A person who suffers from a mental illness (in terms of the Mental Health Act, 1973 (Act no.18 of 1973).
9. **“Youth”** means, in respect of a person younger than 35 years of age.

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10. **"Location of enterprise"** Local equals province. Where a project cuts across more than one province, the bidder may be located in any of the relevant provinces to obtain the points.

3 FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1 POINTS AWARDED FOR THE PRICE

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

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

$$\begin{array}{ccc} 80/20 & \text{or} & 90/10 \\ P_s = 80 \left(1 - \frac{P_t - P_{min}}{P_{min}} \right) & \text{or} & P_s = 90 \left(1 - \frac{P_t - P_{min}}{P_{min}} \right) \end{array}$$

Where

P_s = Points scored for the price of a Bid under consideration

P_t = Price of a Bid under consideration

P_{min} = Price of lowest acceptable Bid

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

3.2.1 POINTS AWARDED FOR THE PRICE

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

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

Where

P_s = Points scored for the price of a Bid under consideration

P_t = Price of a Bid under consideration

P_{min} = Price of lowest acceptable Bid

Department of Water and Sanitation: Request for Proposals (RFP) for the selection of Independent Power Producers (BIDDERS) for energy augmentation at selected government waterworks infrastructure for a 40-year operational period in Design-Build-Finance –Own-Operate (DBFOO) mode

4 POINTS AWARDED FOR SPECIFIC GOALS

4.1 In terms of Regulations 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.

Table1: Specific goals for the bid and points claimed are indicated per the table below:

Specific Goals allocated points in terms of this Bid	Number of points allocated (90/10 System)	Number of claimed (90/10 system) (To be claimed by the Bidder)
Women	2	
People with disability	2	
Youth (35 and below)	2	
Location of Enterprise (Province)	1	
B-BBEE Status Level Contributors from Level 1 to 2 which are QSE or EME	3	
Total Points for the Specific Goals	10	

Department of Water and Sanitation: Request for Proposals (RFP) for the selection of Independent Power Producers (BIDDERS) for energy augmentation at selected government waterworks infrastructure for a 40-year operational period in Design-Build-Finance –Own-Operate (DBFOO) mode

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
- ☐ Company
- ☐ (Pty) Limited

[Tick Applicable Box]

4.6 I/we, the undersigned, who is/are duly authorized to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the Bid, qualify 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 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser 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 the 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.

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WITNESSES

1.

2.

.....
SIGNATURE(S) OF BIDDER(S)

DATE:.....

ADDRESS:

.....

.....

Department of Water and Sanitation: Request for Proposals (RFP) for the selection of Independent Power Producers (BIDDERS) for energy augmentation at selected government waterworks infrastructure for a 40-year operational period in Design-Build-Finance –Own-Operate (DBFOO) mode

SBD 4

SCHEDULE 4: DECLARATION OF INTEREST

- 1 Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to Bid (includes a price quotation, advertised competitive Bid, limited Bid or proposal). In view of possible allegations of favouritism, should the resulting Bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the Bidder or his/her authorized representative declare his/her position in relation to the evaluating/adjudicating authority where-
 - 1.1 the Bidder is employed by the state; and/or
 - 1.2 the legal person on whose behalf the Bidding document is signed has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the Bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the Bid.
- 2 **In order to give effect to the above, the following questionnaire must be completed and submitted with the Bid.**
 - 2.1 Full Name of Bidder or his or her representative:
 - 2.2 Identity Number:
 - 2.3 Position occupied in the Company (director, trustee, shareholder²):
 - 2.4 Company Registration Number:
 - 2.5 Tax Reference Number:
 - 2.6 VAT Registration Number:
 - 2.6.1 The names of all directors/trustees/shareholders/members, their individual identity numbers, tax reference numbers and, if applicable, employee / Persal numbers must be indicated in paragraph 3 below.
 - 2.7 Are you or any person connected with the Bidder presently employed by the state? **YES / NO**
 - 2.7.1 If so, furnish the following particulars:
Name of person/director/trustee/shareholder/ member:
Name of state institution at which you or the person connected to the Bidder is employed:
.....
Position occupied in the state institution:
Any other particulars:
 - 2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? **YES / NO**
 - 2.7.2.1 If yes, did you attach 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.

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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:

.....
.....

"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.

"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.

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

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:

.....
.....

Department of Water and Sanitation: Request for Proposals (RFP) for the selection of Independent Power Producers (BIDDERS) for energy augmentation at selected government waterworks infrastructure for a 40-year operational period in Design-Build-Finance -Own-Operate (DBFOO) mode

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.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF THE CONTRACT SHOULD THIS DECLARATION PROVE TO BE FALSE.

Signature

Date

Position

Name of Bidder

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SCHEDULE 5: CONFLICT OF INTEREST DECLARATION

- 1** The tenderer shall declare whether it has any conflict of interest in the transaction for which the tender is submitted. (Please mark with X)

YES		NO	
------------	--	-----------	--

- 1.1 If yes, the tenderer is required to set out the particulars in the table below:

- 2** The tenderer shall declare whether it has directly or through a representative or intermediary promised, offered or granted:

- 2.1 any inducement or reward to the Department for or in connection with the award of this contract; or
 2.2 any reward, gift, favour or hospitality to any official or any other role player involved in the implementation of the supply chain management policy. (Please mark with X)

YES		NO	
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If yes, the tenderer is required to set out the particulars in the table below:

Should the tenderer be aware of any corrupt or fraudulent transactions relating to the procurement process of the Department of Water and Sanitation, please contact the following: Department's anti-corruption hotline at 0800 701 701 (toll-free)

The tenderer hereby certifies that the information set out in this schedule and/or attached hereto is true and correct, and acknowledges that failure to properly and truthfully complete this schedule may result in steps being taken against the tenderer, the tender being disqualified, and/or (in the event that the tenderer is successful) the cancellation of the contract, restriction of the tenderer or the exercise by the Department of any other remedies available to it

.....
 Signature
 Print Name(s)
 On behalf of the Bidder (duly authorized)

.....
 Date

Department of Water and Sanitation: Request for Proposals (RFP) for the selection of Independent Power Producers (BIDDERS) for energy augmentation at selected government waterworks infrastructure for a 40-year operational period in Design-Build-Finance –Own-Operate (DBFOO) mode

SCHEDULE 7: CONTRACT PRICE ADJUSTMENT AND/OR RATE OF EXCHANGE VARIATION

Bidders must ensure that:

- 1.1 the indexed Price must be calculated using a base date as specified for a particular Bid Submission Phase and indexed using the agreed CPI mechanism proposed;
- 1.2 In respect of all Technologies, the Bidder is required to provide a completed Schedule 1 (Details of the Project and Facility) Part 3 (Energy Rates) to the PPA to reflect its proposed indexation mechanism and this Schedule 1 (Details of the Project and Facility) Part 3 (Energy Rates) to the PPA must be consistent with the Financial Model provided by the Bidder

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SCHEDULE 8: SITE INSPECTION DECLARATION

I/we..... certify that I/we have inspected the site location and understood the existing project site, water body, electrical system, ESKOM distribution/transmission system and made a complete and careful examination of the Request for Proposal and enclosed draft Power Purchase Agreement before submitting my/our Bid.

Yours faithfully,

.....
(Signature of the Authorised Signatory)

.....
Date

.....
(Name and designation of the Authorised Signatory)

.....
Name and seal of Bidder

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SCHEDULE 10: LOCAL CONTENT DECLARATION

NOT APPLICABLE

Department of Water and Sanitation: Request for Proposals (RFP) for the selection of Independent Power Producers (BIDDERS) for energy augmentation at selected government waterworks infrastructure for a 40-year operational period in Design-Build-Finance –Own-Operate (DBFOO) mode

SCHEDULE 12: SCHEDULE FOR PRE-QUALIFICATION CRITERIA SUB-CONTRACTORS

NOT APPLICABLE

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SCHEDULE 13: LIST OF OTHER DOCUMENTS ATTACHED BY BIDDER

The Bidder has attached to this schedule, the following additional documentation:		
	Date of Document	Title of Document or Description (refer to Clauses/schedules of this tender document where applicable)
1		
2		
3		
4		
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6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		

.....
Signature
Print Name(s)
On behalf of the Bidder (duly authorised)

.....
Date

Department of Water and Sanitation: Request for Proposals (RFP) for the selection of Independent Power Producers (BIDDERS) for energy augmentation at selected government waterworks infrastructure for a 40-year operational period in Design-Build-Finance –Own-Operate (DBFOO) mode

SCHEDULE 14: RECORD OF ADDENDA TO TENDER DOCUMENTS

We confirm that the following communications received from the Department before the submission of this tender offer, amending the tender documents, have been taken into account in this tender offer:		
	Date	Title or Details
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

SIGNATURE: DATE:
(of the person authorized to sign on behalf of the Tenderer)

Department of Water and Sanitation: Request for Proposals (RFP) for the selection of Independent Power Producers (BIDDERS) for energy augmentation at selected government waterworks infrastructure for a 40-year operational period in Design-Build-Finance –Own-Operate (DBFOO) mode

SCHEDULE 15: INFORMATION TO BE PROVIDED WITH THE BID

The following information shall be provided with the Tender:

- a. The various technical details and data required by the Technical Data Sheets and information required in the Returnable Schedules.
- b. Project Feasibility Study Report detailing the project implementation timeline i.e. design, construction and commissioning of the proposed plant to be implemented including the information requested in Table 1 and Table 2 of the specification:

Table 1: Project generation information (as applicable)

Project Name:	
Contracted Capacity: [MW]	
Maximum Export Capacity (as defined in the Distribution Agreement or the Transmission Agreement, as the case may be): [MW]	
SPV Module Type (if applicable): [e.g. Polycrystalline, Monocrystalline, Thin Film]	
Number of PV Modules (if applicable):	
Number of module strings (where a string constitutes a number of modules connected to a common inverter)(if applicable):	
Mounting Type (fixed, single-axis tracking or double-axis tracking)(if applicable):	
PV or other inverters (manufacturer and model) (if applicable):	
Wind Turbine Generator ("WTG") Type and nameplate capacity: [e.g. 3-Bladed, horizontal Axis, 2 MW]	
WTG Model: [e.g. Vestas V90 2.0MW]	
Hub Height: [m]	
WTG Rotor Diameter: [m]	
Number of WTGs:	
Maximum instantaneous AC rated capacity of inverter: [MW]	
Maximum continuous AC rated capacity of inverter: [MW]	
Number of inverters:	
Transformer ratings:	

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Number of transformers:	
Planned voltage connection level:	
Planned connection point (i.e. the name of the substation or distribution line onto which the Project is intended to connect):	

Table 2: Project readiness

Project Readiness	
Period to Commercial Operation Date after notice to proceed granted/PPA signed (months):	
Status of Generation Fuel and supply agreements, if applicable:	
Status of Environmental Authorisation, if applicable, granted or initiated? Details.	
Copy of evidence of land ownership/lease agreement, i.e. main land parcel required for siting of power plant	
Status of permits and authorisations - details of both those granted and outstanding with associated estimated timeframes provided: e.g. wayleaves, servitudes, grid code compliance, etc	

- c. The expertise of key personnel: A CV is to be provided for each key project team member with a table (Schedule 15A) indicating the number of years of relevant work experience. Proof of all relevant qualifications and registration, a sample of the projects relevant to this experience, and their role on these projects.

Table 3: Schedule 15A

Name of team member	Role in the project team	Qualification(s)	Relevant Projects	Number of years of relevant experience

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- d. Past projects of the company: A table (Schedule 15B) of past projects by the company of a similar nature on Energy Procurement Programmes, including for each project the start and end date, the location, the name and contact details of the client, a short description of the work undertaken and the rand value of the project. Attach signed reference letter per program/project from the Client

Table 4: Schedule 15B

Name of project	Project duration (start and end date)	Value	Location	Client Details	Short Description

Note that the Department may under certain circumstances assume the operations and maintenance of the electrical cable connecting the power plant to the network, due to servitude restrictions. This will be determined during the evaluation process, considered in the cost estimation process and communicated to the Bidders accordingly.

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- e. Socio-Economic Development Plan: A table (Schedule 15C) of the Socio-Economic Development Plan including the comprehensive socio-economic analysis and a short description of the development needs and plans.

Table 5: Schedule 15C

<p align="center">Socio-Economic Analysis of the Local Community within the Particular Pump Station Site</p> <p align="center">(Please provide a comprehensive socio-economic analysis of the site development landscape (summary))</p>				
Item(s)				
<p align="center">Summary of Particular Project Site Development Needs and Plans</p>				
Sector/Thematic Area	Key development issues to be addressed	Locally appropriate community development initiatives	Duration (e.g. once off, Annually etc.)	Soci-Economic Beneficiaries

SIGNATURE:
(of the person authorized to sign on behalf of the Bidder)

DATE:

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REQUEST FOR PROPOSALS (RFP)

FOR

THE SELECTION OF INDEPENDENT POWER PRODUCERS

(BIDDERS)

FOR

ENERGY AUGMENTATION AT SELECTED GOVERNMENT

WATERWORKS INFRASTRUCTURE

FOR

A 40-YEARS OPERATIONAL PERIOD

ON

DESIGN-BUILD-FINANCE-OWN-OPERATE (DBFOO) MODE

VOLUME III: CONTRACT DATA

Department of Water and Sanitation: Request for Proposals (RFP) for the selection of Independent Power Producers (BIDDERS) for energy augmentation at selected government waterworks infrastructure for a 40-year operational period in Design-Build-Finance –Own-Operate (DBFOO) mode

7 SPECIAL CONDITIONS OF THE CONTRACT

The following Special Conditions of Contract, referring to the National Treasury – Conditions of Contract (revised July 2010), are applicable to this Contract:

1. DEFINITIONS

Delete Clause 1.15 and substitute it with the following

- 1.15 The word 'Goods' is to be replaced everywhere it occurs in the GCC with the phrase 'Goods and/or Services' which means all of the equipment, machinery, materials, services, products, consumables, etc. that the supplier is required to deliver to the purchaser under the contract. This definition shall also be applicable, as the context requires, anywhere where the words "supplies" and "services" occurs in the GCC.

Delete Clause 1.19 and substitute it with the following

- 1.19 The word 'Order' is to be replaced everywhere it occurs in the GCC with the words 'Purchase Order' which means the official purchase order authorised and released on the purchaser's SAP System

Delete Clause 1.21 and substitute it with the following:

- 1.21 'Purchaser' means the Department of Water and Sanitation. The address of the Purchaser is 185 Francis Baard Street, Pretoria, 0001.

Add the following after Clause 1.25:

- 1.26 'Supplier' means any provider of goods and/or services with whom the contract is concluded
- 1.27 "Intellectual Property" means any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, copyright and rights in the nature of copyright, design rights, rights in databases, know-how, trade secrets and any other intellectual property rights which subsist in computer

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software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites

3. GENERAL OBLIGATIONS

Delete Clause 3.2 in its entirety and replace it with the following Clauses.

- 3.2 The parties will be liable to each other arising out of or in connection with any breach of the obligations detailed or implied in this contract, subject to Clause 28.
- 3.3 All parties in a joint venture or consortium shall be jointly and severally liable to the purchaser in terms of this contract and shall carry individually the minimum levels of insurance stated in the contract, if any.
- 3.4 The parties shall comply with all laws, regulations and bylaws of local or other authorities having jurisdiction regarding the delivery of the goods and give all notices and pay all charges required by such authorities.
 - 3.4.1 The parties agree that this contract shall also be subject to the Department's Supply Chain Management Policy ('SCM Policy') that was applicable on the date the Bid was advertised, save that if the Department adopts a new SCM Policy which contemplates that any Clause therein would apply to the contract emanating from this Bid, such Clause shall also be applicable to that contract. Please refer to this document contained on the Department's website.
 - 3.4.2 Abuse of the supply chain management system is not permitted and may result in cancellation of the contract, restriction of the supplier, and/or the exercise by the Department of any other remedies available to it as described in the SCM Policy.

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3.5 The **supplier shall:**

3.5.1 Arrange for the documents listed below to be provided to the Purchaser prior to the issuing of the order:

- a) Proof of Insurance (Refer to Clause 11) or Insurance Broker's Warranty
- b) Letter of good standing from the Compensation Commissioner, or a licensed compensation insurer (Refer to Clause 11)
- c) Initial delivery programme
- d) Proof of land ownership/access (title deed; rental agreement; notarial lease; option to lease; option to purchase) for the proposed power plant, for the full duration of the PPA.
- e) Other requirements as detailed in the Bid documents

3.5.2 Only when notified of the acceptance of the Bid by the issuing of the order, the supplier shall commence with and carry out the delivery of the goods in accordance with the contract, to the satisfaction, of the purchaser

3.5.3 Provide all of the necessary materials, labour, plant and equipment required for the delivery of the goods including any temporary services that may be required

3.5.4 Insure his workmen and employees against death or injury arising out of the delivery of the goods

3.5.5 Be continuously represented during the delivery of the goods by a competent representative duly authorised to execute instructions;

3.5.6 In the event of a loss resulting in a claim against the insurance policies stated in Clause 11, pay the first amount (excess) as required by the insurance policy

3.5.7 Comply with all written instructions from the purchaser subject to Clause 18

3.5.8 Complete and deliver the goods within the period stated in Clause 10, or any extensions thereof in terms of Clause 21

3.5.9 Make good at his own expense all incomplete and defective goods during the warranty period

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- 3.5.10 Pay to the purchaser any penalty for delay as due on demand by the purchaser. The supplier hereby consents to such amounts being deducted from any payment to the supplier.
- 3.5.11 Comply with the provisions of the OHAS Act & all relevant regulations.
- 3.5.12 Comply with all laws relating to wages and conditions generally governing the employment of labour in the specific project site area and any applicable Bargaining Council agreements.
- 3.5.13 Deliver the goods in accordance with the contract and with all reasonable care, diligence and skill in accordance with generally accepted professional techniques and standards.
- 3.6 The **purchaser** shall:
 - 3.6.1 Issue orders for the goods required under this Contract. No liability for payment will ensue for any work done if an official purchase order has not been issued to the supplier.
 - 3.6.2 Make payment to the supplier for the goods as set out herein.
 - 3.6.3 Take possession of the goods upon delivery by the supplier.
 - 3.6.4 Regularly inspect the goods to establish that it is being delivered in compliance with the contract.
 - 3.6.5 Give any instructions and/or explanations and/or variations to the supplier including any relevant advice to assist the supplier to understand the contract documents.
 - 3.6.6 Grant or refuse any extension of time requested by the supplier to the period stated in Clause 10.
 - 3.6.7 Inspect the goods to determine if, in the opinion of the purchaser, it has been delivered in compliance with the contract, alternatively in such a state that it can be properly used for the purpose for which it was intended.
 - 3.6.8 Brief the supplier and issue all documents, information, etc. in accordance with the contract.

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5. USE OF CONTRACT DOCUMENTS AND INFORMATION; INSPECTION, COPYRIGHT, CONFIDENTIALITY, ETC.

Add the following after Clause 5.4:

- 5.5 Copyright of all documents prepared by the supplier in accordance with the relevant provisions of the Copyright Act (Act 98 of 1978) relating to the contract shall be vested in the purchaser. Where copyright is vested in the supplier, the purchaser shall be entitled to use the documents or copy them only for the purposes for which they are intended in regard to the contract and need not obtain the supplier's permission to copy for such use. Where copyright is vested in the purchaser, the supplier shall not be liable in any way for the use of any of the information other than as originally intended for the contract and the purchaser hereby indemnifies the supplier against any claim which may be made against him by any party arising from the use of such documentation for other purposes.

The ownership of data and factual information collected by the supplier and paid for by the purchaser shall, after payment, vest with the purchaser

5.6 Publicity and Publication

The supplier shall not release public or media statements or publish material related to the services or contract within two (2) years of completion of the services without the written approval of the purchaser, which approval shall not be unreasonably withheld.

5.7 Confidentiality

Both parties shall keep all information obtained by them in the context of the contract confidential and shall not divulge it without the written approval of the other party.

5.8 Intellectual Property

- 5.8.1 The supplier acknowledges that it shall not acquire any right, title or interest in or to the Intellectual Property of the Department.

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5.8.2 The supplier hereby assigns to the Department, all Intellectual Property created, developed or otherwise brought into existence by it for the purposes of the contract, unless the Parties expressly agree otherwise in writing.

5.8.3 The supplier shall, and warrants that it shall:

5.8.3.1 not be entitled to use the Department's Intellectual Property for any purpose other than as contemplated in this contract;

5.8.3.2 not modify, add to, change or alter the Department's Intellectual Property, or any information or data related thereto, nor may the supplier produce any product as a result of, including and/or arising from any such information, data and Intellectual Property, and in the event that it does produce any such product, the product shall be, and be deemed in law to be, owned by the Department;

5.8.3.3 not apply for or obtain registration of any domain name, trademark or design which is similar to any Intellectual Property of the Department;

5.8.3.4 comply with all reasonable directions or instructions given to it by the Department in relation to the form and manner of use of the Department Intellectual Property, including without limitation, any brand guidelines which the Department may provide to the supplier from time to time;

5.8.3.5 procure that its employees, directors, members, and contractors comply strictly with the provisions of Clauses 5.8.3.1 to 5.8.3.3 above;

unless the Department expressly agrees thereto in writing after obtaining due internal authority.

5.8.4 The supplier represents and warrants to the Department that, in providing goods, services, or both, as the case may be, for the duration of the contract, it will not infringe or make unauthorized use of the Intellectual Property rights of any third party and hereby indemnifies the Department from any claims, liability, loss, damages, costs, and expenses arising from the infringement or unauthorized use by the supplier of any third party's Intellectual Property rights.

5.8.5 In the event that the contract is canceled, terminated, ended, or is declared void, any and all of the Department's Intellectual Property, and any and all information and data related thereto,

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shall be immediately handed over to the Department by the supplier and no copies thereof shall be retained by the supplier unless the Department expressly and in writing, after obtaining due internal authority, agrees otherwise.

7. PERFORMANCE SECURITY

Delete Clause 7.1 and replace it with the following:

- 7.1 *Each Bidder shall provide the Department with a single Bid Guarantee (in Rands) in an amount equal to R50 000 (fifty thousand Rand) per MW of the nameplate capacity of the proposed Facilities for the Project in respect of which that Bidder submits that Bid Response once invited into the second round of Bidding. Notwithstanding, receipt of the notification of contract award, the successful Bidder shall furnish to the purchaser the performance security of the amount specified herein within [14] ([fourteen]) days of the written notice given by the Department to the Supplier that the Department is entitled to enter into power purchase agreements of the nature contemplated in Bid no: **DWS17-0923WTE [THE SELECTION OF INDEPENDENT POWER PRODUCERS (BIDDERS) FOR ENERGY AUGMENTATION AT SELECTED GOVERNMENT WATERWORKS INFRASTRUCTURE FOR A 40-YEARS OPERATIONAL PERIOD IN DESIGN-BUILD-FINANCEOWN-OPERATE (DBFOO) MODE]**.*

Delete Clause 7.3 and replace it with the following:

- 7.3 The performance security shall be furnished strictly in accordance with the terms and conditions set out in the Form of Guarantee / Performance Security and can only be issued by any one of the Financial Institutions approved for the issue of contract guarantees to the Government Institutions.

Delete Clause 7.4 and replace it with the following:

- 7.4 The performance security will be discharged by the purchaser and returned to the supplier strictly in accordance with the terms and conditions set out in the Form of Guarantee / Performance Security

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8. INSPECTIONS, TESTS AND ANALYSES

Delete Clause 8.2 and substitute it with the following:

- 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 purchaser or an organization acting on behalf of the purchaser.

10. DELIVERY AND DOCUMENTS

Delete Clauses 10.1 and 10.2 and replace them with the following:

- 10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The time for delivery of the goods shall be the date stated on the order. Orders for the supply and delivery of goods may be raised up until the expiry of a framework agreement Bid, provided that the goods can be delivered within 30 days of the expiry of the framework contract. All orders, other than for the supply and delivery of goods, must be completed prior to the expiry of the contract period.
- 10.2 The purchaser shall determine, in its sole discretion, whether the goods have been delivered in compliance with the contract, alternatively in such a state that it can be properly used for the purpose for which it was intended. When the purchaser determines that the goods have been satisfactorily delivered, the purchaser must issue an appropriate certification, or written approval, to that effect. Invoicing may only occur and must be dated, on or after the date of acceptance of the goods.

11. INSURANCE

Add the following after Clause 11.1:

- 11.2 Without limiting the obligations of the supplier in terms of this contract, the supplier shall effect and maintain the following additional insurances:

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- a) Public liability insurance, in the name of the supplier, covering the supplier and the purchaser against liability for the death of or injury to any person, or loss of or damage to any property, arising out of or in the course of this Contract, in an amount not less than R20 million for any single claim;
- b) Motor Vehicle Liability Insurance, in respect of all vehicles owned and/or leased by the supplier, comprising (as a minimum) “Balance of Third Party” Risks including Passenger Liability Indemnity;
- c) Registration/insurance in terms of the Compensation for Occupational Injuries and Disease Act, Act 130 of 1993. This can either take the form of a certified copy of a valid Letter of Good Standing issued by the Compensation Commissioner, or proof of insurance with a licensed compensation insurer, from either the Bidder’s broker or the insurance company itself (see Proof of Insurance / Insurance Broker’s Warranty section in the document for a pro forma version).

In the event of under-insurance or the insurer’s repudiation of any claim for whatever reason, the Department will retain its right of recourse against the supplier.

- 11.3 The supplier shall be obliged to furnish the Department with proof of such insurance as the Department may require from time to time for the duration of this Contract. Evidence that the insurances have been effected in terms of this Clause, shall be either in the form of an insurance broker’s warranty worded precisely as per the pro forma version contained in the Proof of Insurance / Insurance Broker’s Warranty section of the document or copies of the insurance policies.

15. WARRANTY

Add to Clause 15.2:

- 15.2 Refer to PPA for warranties & performance.

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16. PAYMENT

Delete Clause 16.1 in its entirety and replace it with the following:

- 16.1 A monthly payment cycle will be the norm. All invoices which are dated on or before the 20th of a particular month will typically be paid between the 23rd and 26th of the following month. The supplier may submit a fully motivated application regarding more frequent payment to the Department's Director: Finance for consideration. Requests for more frequent payments will be considered at the sole discretion of the Department and is not a right in terms of this contract.

Delete Clause 16.2 in its entirety and replace it with the following:

- 16.2 The supplier shall furnish the purchaser's Accounts Payable Department with an original tax invoice, clearly showing the amount due in respect of each and every claim for payment.

Add the following after Clause 16.4

- 16.5 Notwithstanding any amount stated on the order, the supplier shall only be entitled to payment for goods actually delivered in terms of the Project Specification and Drawings, or any variations in accordance with Clause 18. Any contingency sum included shall be for the sole use, and at the discretion, of the purchaser.

The Department is not liable for payment of any invoice that pre-dates the date of delivery of the goods.

- 16.6 The purchaser will only make advanced payments to the supplier in strict compliance with the terms and details as contained on the Proforma Advanced Payment Guarantee and only once the authenticity of such guarantee has been verified by the Department's Finance Directorate.

17. PRICES

Add the following after Clause 17.1

- 17.2 If as a result of an award of a contract beyond the original Bid validity period, the contract execution will be completed beyond a period of twelve (12) months from the expiry of the original Bid validity period, then the contract may be subject to contract price adjustment for that period beyond such twelve (12) months. An appropriate contract price adjustment formula will be determined by the Director: Supply Chain Management if such was not included in the Bid documents.
- 17.3 If as a result of any extension of time granted the contract execution will be completed beyond a period of twelve (12) months from the expiry of the original Bid validity period, then contract price adjustment may apply to that period beyond such twelve (12) months. An appropriate contract price adjustment formula will be determined by the Director: Supply Chain Management if such was not included in the Bid documents.
- 17.4 The prices for the goods delivered and services performed shall be subject to contract price adjustment and the following conditions will be applicable:

Refer to schedule 8

- 17.5 If price adjustment for variations in the cost of plant and materials imported from outside of South Africa is provided for in the contract, such adjustment shall be based on the information contained on the schedule titled "Price Basis for Imported Resources" and as below. For the purposes of this Clause, the Rand value of imported Plant and Materials inserted on the schedule titled "Price Basis for Imported Resources" (column (F)) shall be the value in foreign currency (column (A)) converted to South African Rand (column (C)) by using the closing spot selling rate quoted by the any Commercial Bank, on the Base Date (seven calendar days before Bid closing date) rounded to the second decimal place (column(B)), to which shall be added any Customs Surcharge and Customs Duty applicable at that date (columns (D) and (E)).

17.5.1 Adjustment for variations in rates of exchange:

- a) The value in foreign currency inserted in column (A) shall be subject to Clause (h) below when recalculating the Rand value.
- b) The rate of exchange inserted in column (B) shall be the closing spot selling rate quoted by the Department, on the Base Date, rounded to the second decimal place, subject to sub-paragraph (c) below.
- c) If the rate of exchange inserted by the Bidder differs from the Department rate referred to above, then the Department rate shall apply and the Rand value in columns (C) and (F) shall be recalculated accordingly, without altering the price in the Price Schedule for the relevant items.
- d) If a Bid from a supplier or sub-contractor provides for variations in rates of exchange, the Supplier may only claim for variations in rates of exchange if he binds the supplier or sub-contractor to the same provision to take out forward cover as described in subparagraph (e) below.
- e) The Supplier (or sub-contractor) shall within five working days from the date of placing a firm order on an overseas supplier, cover or recover forward by way of a contract with a bank that is an authorized foreign exchange dealer, the foreign exchange component of the cost of any imported Plant and Materials inserted by the Bidder on the scheduled titled “Price Basis for Imported Resources”.
- f) When the Supplier (or sub-contractor) so obtains forward cover, the Supplier shall immediately notify the Department of the rate obtained and furnish the Department with a copy of the foreign exchange contract note.
- g) Based on the evidence provided in subparagraph (f) above, the value in Rand inserted in column (C) of on the schedule titled “Price Basis for Imported Resources “shall be recalculated using the forward cover rate obtained, and any increase or decrease in the Rand value defined in this Clause shall be adjusted accordingly, subject to subparagraph (h) below.
- h) The adjustments shall be calculated upon the value in foreign currency in the Supplier’s (or sub-contractor’s) forward cover contract, provided that, should this value exceed the value in foreign currency inserted in column (A) of on the schedule titled “Price Basis for Imported Resources”, then the value in column (A) shall be used.

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17.5.2 Adjustment for variations in customs surcharge and customs duty

- a) Any increase or decrease in the Rand value between the amounts of Customs Surcharge and Customs Duty inserted in on the schedule titled “Price Basis for Imported Resources” and those amounts actually paid to the Customs and Excise Authorities, which are due to changes in the percentage rates applicable or to the foreign exchange rate used by the authorities, shall be adjusted accordingly.
- b) The Bidder shall state the Customs Duty Tariff Reference applicable to each item and the Supplier shall advise the Department’s Agent of any changes which occur.

17.5.3 Adjustment for Variation in Labour and Material Costs

If the prices for imported Plant and Materials are not fixed, the Supplier shall in his Bid specify the formula for calculating Contract Price Adjustments normally used in the country of manufacture and the indices and relative proportions of labour and material on which his Bid prices are based. Evidence of the indices applicable shall be provided with each claim. The indices applicable 42 days before the contractual dispatch date from the factory will be used for the purposes of Contract Price Adjustment.

Failure to specify a formula in the Bid shall mean that the prices are fixed or shall be deemed to be fixed.

18. CONTRACT AMENDMENTS

Delete the heading of Clause 18 and replace it with the following:

18. Contract Amendments and Variations

Add the following to Clause 18.1:

Variations mean changes to the goods, the extension of the duration or expansion of the value of the contract that the purchaser issues to the supplier as instructions in writing, subject to prior approval by the purchaser’s delegated authority. Should the supplier deliver any goods not described in a written instruction from the purchaser, such work will not become due and payable until an amended order has been issued by the purchaser.

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20. SUBCONTRACTS

Add the following after Clause 20.1:

- 20.2 The supplier shall be liable for the acts, defaults and negligence of any subcontractor, his agents or employees as fully as if they were the acts, defaults or negligence of the supplier.
- 20.3 Any appointment of a subcontractor shall not amount to a contract between the Department and the subcontractor, or responsibility or liability on the part of the Department to the subcontractor and shall not relieve the supplier from any liability or obligation under the contract.

21. DELAYS IN THE SUPPLIER'S PERFORMANCE

Delete Clause 21.2 in its entirety and replace it with the following:

- 21.2 If at any time during the performance of the contract, the supplier or its sub-contractors should encounter conditions beyond their reasonable control which impede the timely delivery of the goods, the supplier shall notify the purchaser in writing, within 7 Days of first having become aware of these conditions, of the facts of the delay, its cause(s) and its probable duration. As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation, and may at his discretion extend the time for delivery.

Where additional time is granted, the purchaser shall also determine whether or not the supplier is entitled to payment for additional costs in respect thereof. The principle to be applied in this regard is that where the purchaser or any of its agents are responsible for the delay, reasonable costs shall be paid. In respect of delays that were beyond the reasonable control of both the supplier and the purchaser, additional time only (no costs) will be granted.

The purchaser shall notify the supplier in writing of his decision(s) in the above regard.

- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of goods from a national Department, provincial Department, or a local authority.

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22. PENALTIES

Delete Clause 22.1 and replace it with the following:

- 22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods 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 as stated herein for each day of the delay until actual delivery or performance.

The penalty for this contract shall be an amount as defined in the Power Purchase Agreement]

- 22.2 The purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, financial penalties as contained on the Preference Schedule relating to breaches of the conditions upon which preference points were awarded.

23. TERMINATION FOR DEFAULT

Delete the heading of Clause 23 and replace it with the following:

23. Termination

Add the following to the end of Clause 23.1:

if the supplier fails to remedy the breach in terms of such notice

Add the following after Clause 23.7:

- 23.8 In addition to the grounds for termination due to default by the supplier, the contract may also be terminated:
- 23.8.1 Upon the death of the supplier who was a Sole Proprietor, or a sole member of a Close Corporation, in which case the contract will terminate forthwith.
- 23.8.2 The parties by mutual agreement terminate the contract.

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- 23.8.3 If an Order has been issued incorrectly, or to the incorrect recipient, the resulting contract may be terminated by the purchaser by written notice
- 23.8.4 If a material irregularity vitiates the procurement process leading to the conclusion of the contract, rendering the procurement process and the conclusion of the resulting contract unfair, inequitable, non-transparent, uncompetitive or not cost-effective, provided the Department follows the processes as described in the purchaser's SCM Policy.
- 23.8.5 After providing notice to the supplier, if the implementation of the contract may result in reputational risk or harm to the Department as a result of (inter alia):
- 23.8.5.1 Reports of poor governance and/or unethical behaviour;
 - 23.8.5.2 Association with the known family of notorious individuals;
 - 23.8.5.3 Poor performance issues, known to the Department;
 - 23.8.5.4 negative social media reports; or
 - 23.8.5.5 Adverse assurance (e.g. due diligence) report outcomes.
- 23.9 If the contract is terminated in terms of Clause 23.8, all obligations that were due and enforceable prior to the date of the termination must be performed by the relevant party.

26. TERMINATION FOR INSOLVENCY

Delete Clause 26.1 and replace it with the following:

- 26.1 The purchaser may make either of the following elections to ensure its rights are protected and any negative impact on service delivery is mitigated:
- 26.1.1 accept a supplier proposal (via the liquidator) to render delivery utilising the appropriate contractual mechanisms; or
 - 26.1.2 terminate the contract, as the liquidator proposed supplier is deemed unacceptable to the purchaser, at any time by giving written notice to the supplier (via the liquidator).

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- 26.2 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

Amend Clause 27.1 as follows:

- 27.1 If any dispute or difference of any kind whatsoever, with the exception of termination in terms of Clause 23.1(c), arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve such dispute or difference amicably, by mutual consultation.

Delete Clause 27.2 in its entirety and replace it with the following:

- 27.2 Should the parties fail to resolve any dispute by way of mutual consultation, either party shall be entitled to refer the matter for mediation before an independent and impartial person appointed by the Parties' Accounting Officer/Executive Level, or their duly designated representatives. Such referral shall be done by either party giving written notice to the other of its intention to commence with mediation. No mediation may be commenced unless such notice is given to the other party.

Irrespective of whether the mediation resolves the dispute, the parties shall bear their own costs concerning the mediation and share the costs of the mediator and related costs equally.

The mediator shall agree on the procedures, representation and dates for the mediation process with the parties. The mediator may meet the parties together or individually to enable a settlement.

Where the parties reach a settlement of the dispute or any part thereof, the mediator shall record such agreement and on signing thereof by the parties, the agreement shall be final and binding.

Save for reference to any portion of any settlement or decision which has been agreed to be final and binding on the parties, no reference shall be made by or on behalf of either party in any subsequent court proceedings, to any outcome of an amicable settlement by mutual consultation, or the fact that any particular evidence was given, or to any submission, statement or admission made in the course of amicable settlement by mutual consultation or mediation.

28. LIMITATION OF LIABILITY

Delete Clause 28.1 (b) and replace it with the following:

- b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the sums insured in terms of Clause 11 in respect of insurable events, or where no such amounts are stated, to an amount equal to twice the contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

Add the following after Clause 28.1:

28.2 Without detracting from, and in addition to, any of the other indemnities in this contract, the supplier shall be solely liable for and hereby indemnifies and holds harmless the purchaser against all claims, charges, damages, costs, actions, liability, demands and/or proceedings and expense in connection with:

- a) personal injury or loss of life to any individual;
- b) loss of or damage to property;

arising from, out of, or in connection with the performance by the supplier in terms of this Contract, save to the extent caused by the gross negligence or wilful misconduct of the purchaser.

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- 28.3 The supplier and/or its employees, agents, concessionaires, suppliers, sub-contractors or customers shall not have any claim of any nature against the purchaser for any loss, damage, injury or death which any of them may directly or indirectly suffer, whether or not such loss, damages, injury or death is caused through negligence of the purchaser or its agents or employees.
- 28.4 Notwithstanding anything to the contrary contained in this Contract, under no circumstances whatsoever, including as a result of its negligent (including grossly negligent) acts or omissions or those of its servants, agents or contractors or other persons for whom in law it may be liable, shall any party or its servants (in whose favour this constitutes a *stipulatio alteri*) be liable for any indirect, extrinsic, special, penal, punitive exemplary or consequential loss or damage of any kind whatsoever, whether or not the loss was actually foreseen or reasonably foreseeable), sustained by the other party, its directors and/or servants, including but not limited to any loss of profits, loss of operation time, corruption or loss of information and/or loss of contracts.
- 28.5 Each party agrees to waive all claims against the other insofar as the aggregate of compensation which might otherwise be payable exceeds the aforesaid maximum amounts payable.

31. NOTICES

Delete Clauses 31.1 and 31.2 and replace them with the following:

- 31.1 Any notice, request, consent, approvals or other communications made between the Parties pursuant to the Contract shall be in writing and forwarded to the addresses specified in the contract and may be given as set out hereunder and shall be deemed to have been received when:
- a) hand-delivered – on the working day of delivery
 - b) sent by registered mail – five (5) working days after mailing
 - c) sent by email or telefax – one (1) working day after transmission

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32. TAXES AND DUTIES

Delete the final sentence of 32.3 and replace it with the following:

In this regard, it is the responsibility of the supplier to submit documentary evidence in the form of a valid Tax Clearance Certificate issued by SARS to the Department.

ADDITIONAL CONDITIONS OF THE CONTRACT

Add the following Clause after Clause 34:

35. REPORTING OBLIGATIONS.

The supplier shall complete, sign and submit with each delivery note, all the documents as required in the Specifications. Any failure in this regard may result in a delay in the processing of any payments.

36. CONFLICT BETWEEN BID CONTRACT CONDITIONS AND PPA

In the event of a conflict between the conditions of the Bid stated herein and the power purchase agreement, the provisions of the power purchase agreement (PPA) will prevail.

37. MEANING OF “GOODS”

"Any reference to goods/services/works shall be deemed to be a reference to Energy, as defined." "Energy" means electrical energy generated by a Supplier and measured in kWh;"

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38. SUSPENSIVE NATURE OF THE AWARD

The contract award will be suspensive upon the successful outcome of the following:

- ❖ Section 34 of the Electricity Regulation Act (ERA) determination application;
- ❖ All project-specific authorizations are being obtained.

39. NEGOTIABILITY OF THE PPA

The PPA annexed to this Bid document will be binding, subject to certain Clauses pertaining to the operation and tariff thereof, being negotiated and agreed to between the parties.

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8 GENERAL CONDITIONS OF THE CONTRACT

(NATIONAL TREASURY - GENERAL CONDITIONS OF CONTRACT (REVISED JULY 2010))

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1. DEFINITIONS

The following terms shall be interpreted as indicated:

- 1.1 “Closing time” means the date and hour specified in the Bid 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 are 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 with 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 goods are so delivered and a valid receipt is obtained.

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- 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 Bid 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 goods covered by the Bid will be manufactured.
- 1.17 "Local content" means that portion of the Bid 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 Bid 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.

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- 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 “Supplier” means the successful Bidder who is awarded the contract to maintain and administer the required and specified service(s) to the State.
- 1.26 “Tort” means in breach of contract.
- 1.27 “Turnkey” means a procurement process where one service provider assumes total responsibility for all aspects of the project and delivers the full end product / service required by the contract.
- 1.28 “Written” or “in writing” means hand-written 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 (excluding professional services related to the building and construction industry), sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the Bid documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific goods, 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

- 4.2 Unless otherwise indicated in the Bid 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.
- 4.3 Invitations to Bid are usually published in locally distributed news media and on the municipality/municipal entity website.

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4. STANDARDS

- 4.1 The goods supplied shall conform to the standards mentioned in the Bid 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 the 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

- 1.1 The supplier shall indemnify the purchaser 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 purchaser.
- 1.2 When a supplier developed documentation/projects for the municipality / municipal entity, the intellectual, copy and patent rights or ownership of such documents or projects will vest in the municipality / municipal entity.

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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 Bid 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.

8. INSPECTIONS, TESTS AND ANALYSES

- 5.10 All pre-Bidding testing will be for the account of the Bidder
- 5.11 If it is a Bid condition that goods to be produced or services to be rendered should at any stage be subject to inspections, tests and analyses, the Bidder or contractor's premises shall be open, at all reasonable hours, for inspection by a representative of the purchaser or organization acting on behalf of the purchaser.
- 5.12 If there are no inspection requirements indicated in the Bid 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 make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 5.13 If the inspections, tests and analyses referred to in Clauses 8.2 and 8.3 show the goods to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 5.14 Where the goods or services referred to in Clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such goods or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.

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- 5.15 Goods 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.
- 5.16 Any contract 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. Such rejected goods 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 goods, which do comply with the requirements of the contract. Failing such removal, the rejected goods shall be returned at the supplier's cost and risk. Should the supplier fail to provide the substitute goods forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected goods, purchase such goods as may be necessary at the expense of the supplier.
- 5.17 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, 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 the SCC.
- 10.2 Documents to be submitted by the supplier are specified in the SCC.

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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.

12. TRANSPORTATION

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

13. INCIDENTAL SERVICES

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

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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.
- 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 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, 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.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note upon fulfilment 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.

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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 the 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 a 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 these 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 the performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding the 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.

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- 21.3 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 goods are required, or the supplier's services are not readily available.
- 21.4 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 22.2 without the application of penalties.
- 21.5 Upon any delay beyond the delivery period in the case of a goods contract, the purchaser shall, without cancelling the contract, be entitled to purchase goods of 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

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c) If the supplier, in the judgement 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 the 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 to impose a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than 14 (fourteen) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated 14 (fourteen) 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 another 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 5 (five) 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 into 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, Act 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Bid 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 of 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. ANTIDUMPING 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 antidumping 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 supplier to the purchaser or the purchaser may deduct such amounts from money (if any) which may otherwise be due to the supplier in regard to goods 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 failures to perform his obligations under the contract is the result of an event of force majeure.

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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 to the supplier.

28. LIMITATION OF LIABILITY

28.1 Should it not be possible to settle a dispute by means of mediation; it may be settled in a South African court of law.

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- 28.3 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 to the supplier for goods delivered and/or services rendered according to the prescripts of the contract.
- 28.4 Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6;
- a) The supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and
 - b) The aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

29. GOVERNING LANGUAGE

- 29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

30. APPLICABLE LAW

- 30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in the SCC.

31. NOTICES

- 31.1 Every written acceptance of a Bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his Bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice
- 31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

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32. TAXES AND DUTIES

- 32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any Bidder whose tax matters are not in order. Prior to the award of a Bid, the Department must be in possession of a tax clearance certificate submitted by the Bidder. This certificate must be an original issued by the South African Revenue Services.

33. NATIONAL INDUSTRIAL PARTICIPATION (NIP) PROGRAMME

- 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.

34. PROHIBITION OF RESTRICTED PRACTICES

- 34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a Bidder (s) is/are or a contractor(s) was/were involved in collusive Bidding.
- 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 section 59 of 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.

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9 FORM OF GUARANTEE/PERFORMANCE SECURITY

FORM OF GUARANTEE / PERFORMANCE SECURITY

GUARANTOR DETAILS AND DEFINITIONS

"Guarantor" means:

Physical address of Guarantor:

"Supplier" means:

"Contract Sum" means: The accepted Bid amount (INCLUSIVE OF VAT) of R

Amount in words:

"Guaranteed Sum" means: The maximum amount of R

Amount in words:

"Contract" means: The agreement made in terms of the Form of Offer and Acceptance for Bid no _____ - _____ and such amendments or additions to the contract as may be agreed in writing between the parties.

PERFORMANCE GUARANTEE

1. The Guarantor's liability shall be limited to the amount of the Guaranteed Sum.
2. The Guarantor's period of liability shall be from and including the date of issue of this Guarantee/Performance Security up to and including the termination of the Contract or the date of payment in full of the Guaranteed Sum, whichever occurs first.
3. The Guarantor hereby acknowledges that:
 - 3.1 any reference in this Guarantee/Performance to "Contract" is made for the purpose of convenience and shall not be construed as any intention whatsoever to create an accessory obligation or any intention whatsoever to create a suretyship;
 - 3.2 its obligation under this Guarantee/Performance Security is restricted to the payment of money.
4. Subject to the Guarantor's maximum liability referred to in 1, the Guarantor hereby undertakes to pay the Department the sum due and payable upon receipt of the documents identified in 4.1 to 4.2:

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- 4.1 A copy of a first written demand issued by the Department to the Supplier stating that payment of a sum which is due and payable has not been made by the Supplier in terms of the Contract and failing such payment within seven (7) calendar days, the Department intends to call upon the Guarantor to make payment in terms of 4.2;
 - 4.2 A first written demand issued by the Department to the Guarantor at the Guarantor's physical address with a copy to the Supplier stating that a period of seven (7) days has elapsed since the first written demand in terms of 4.1 and the sum has still not been paid.
- 5. Subject to the Guarantor's maximum liability referred to in 1, the Guarantor undertakes to pay to the Department the Guaranteed Sum or the full outstanding balance upon receipt of a first written demand from the Department to the Guarantor at the Guarantor's physical address calling up this Guarantee / Performance Security, such demand stating that:
 - 5.1 the Contract has been terminated due to the Supplier's default and that this Guarantee/Performance Security is called up in terms of 5; or
 - 5.2 a provisional or final sequestration or liquidation court order has been granted against the Supplier and that the Guarantee/Performance Guarantee is called up in terms of 5; and
 - 5.3 the aforesaid written demand is accompanied by a copy of the notice of termination and/or the provisional/final sequestration and/or the provisional liquidation court order.
- 6. It is recorded that the aggregate amount of payments required to be made by the Guarantor in terms of 4 and 5 shall not exceed the Guarantor's maximum liability in terms of 1.
- 7. Where the Guarantor has made payment in terms of 5, the Department shall upon the termination date of the Contract, submit an expense account to the Guarantor showing how all monies received in terms of this Guarantee/Performance Security have been expended and shall refund to the Guarantor any resulting surplus. All monies refunded to the Guarantor in terms of this Guarantee/Performance Security shall bear interest at the prime overdraft rate of the Department's bank compounded monthly and calculated from the date payment was made by the Guarantor to the Department until the date of refund.
- 8. Payment by the Guarantor in terms of 4 or 5 shall be made within seven (7) calendar days upon receipt of the first written demand to the Guarantor.

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9. The Department shall have the absolute right to arrange its affairs with the Supplier in any manner which the Department may deem fit and the Guarantor shall not have the right to claim his release from this Guarantee /Performance Security on account of any conduct alleged to be prejudicial to the Guarantor.
10. The Guarantor chooses the physical address as stated above for the service of all notices for all purposes in connection herewith.
11. This Guarantee/Performance Security is neither negotiable nor transferable and shall expire in terms of 2, where after no claims will be considered by the Guarantor. The original of this Guarantee / Performance Security shall be returned to the Guarantor after it has expired.
12. This Guarantee/Performance Security, with the required demand notices in terms of 4 or 5, shall be regarded as a liquid document for the purposes of obtaining a court order.
13. Where this Guarantee/Performance Security is issued in the Republic of South Africa the Guarantor hereby consents in terms of Section 45 of the Magistrate's Courts Act No 32 of 1944, as amended, to the jurisdiction of the Magistrate's Court of any district having jurisdiction in terms of Section 28 of the said Act, notwithstanding that the amount of the claim may exceed the jurisdiction of the Magistrate's Court.

Signed at

Date

Guarantor's signatory (1)

Capacity

Guarantor's signatory (2)

Capacity

Witness signatory (1)

Witness signatory (2)

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10 FORM OF ADVANCE PAYMENT GUARANTEE

NOT APPLICABLE

ADVANCE PAYMENT GUARANTEE

GUARANTOR DETAILS AND DEFINITIONS

"Guarantor" means:

Physical address of Guarantor:

"Supplier" means:

"Contract Sum" means: The accepted Bid amount (INCLUSIVE OF VAT) of R

Amount in words:

"Guaranteed Sum" means: The maximum amount of R

Amount in words:

"Contract" means: The agreement made in terms of the Form of Offer and Acceptance for Bid no _____ - _____ and such amendments or additions to the contract as may be agreed in writing between the parties.

PERFORMANCE GUARANTEE

1. The Guarantor's liability shall be limited to the amount of the Guaranteed Sum.
2. The Guarantor's period of liability shall be from and including the date of issue of this Guarantee/Performance Security up to and including the termination of the Contract or the date of payment in full of the Guaranteed Sum, whichever occurs first.
3. The Guarantor hereby acknowledges that:
 - 3.1 any reference in this Guarantee/Performance to "Contract" is made for the purpose of convenience and shall not be construed as any intention whatsoever to create an accessory obligation or any intention whatsoever to create a suretyship;
 - 3.2 its obligation under this Guarantee/Performance Security is restricted to the payment of money.

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4. Subject to the Guarantor's maximum liability referred to in 1, the Guarantor hereby undertakes to pay the Department the sum due and payable upon receipt of the documents identified in 4.1 to 4.2:
 - 4.1 A copy of a first written demand issued by the Department to the Supplier stating that payment of a sum which is due and payable has not been made by the Supplier in terms of the Contract and failing such payment within seven (7) calendar days, the Department intends to call upon the Guarantor to make payment in terms of 4.2;
 - 4.2 A first written demand issued by the Department to the Guarantor at the Guarantor's physical address with a copy to the Supplier stating that a period of seven (7) days has elapsed since the first written demand in terms of 4.1 and the sum has still not been paid.
5. Subject to the Guarantor's maximum liability referred to in 1, the Guarantor undertakes to pay to the Department the Guaranteed Sum or the full outstanding balance upon receipt of a first written demand from the Department to the Guarantor at the Guarantor's physical address calling up this Guarantee / Performance Security, such demand stating that:
 - 5.1 the Contract has been terminated due to the Supplier's default and that this Guarantee/Performance Security is called up in terms of 5; or
 - 5.2 a provisional or final sequestration or liquidation court order has been granted against the Supplier and that the Guarantee/Performance Guarantee is called up in terms of 5; and
 - 5.3 the aforesaid written demand is accompanied by a copy of the notice of termination and/or the provisional/final sequestration and/or the provisional liquidation court order.
6. It is recorded that the aggregate amount of payments required to be made by the Guarantor in terms of 4 and 5 shall not exceed the Guarantor's maximum liability in terms of 1.
7. Where the Guarantor has made payment in terms of 5, the Department shall upon the termination date of the Contract, submit an expense account to the Guarantor showing how all monies received in terms of this Guarantee/Performance Security have been expended and shall refund to the Guarantor any resulting surplus. All monies refunded to the Guarantor in terms of this Guarantee/Performance Security shall bear interest at the prime overdraft rate of the Department's bank compounded monthly and calculated from the date payment was made by the Guarantor to the Department until the date of refund.

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8. Payment by the Guarantor in terms of 4 or 5 shall be made within seven (7) calendar days upon receipt of the first written demand to the Guarantor.
9. The Department shall have the absolute right to arrange its affairs with the Supplier in any manner which the Department may deem fit and the Guarantor shall not have the right to claim his release from this Guarantee /Performance Security on account of any conduct alleged to be prejudicial to the Guarantor.
10. The Guarantor chooses the physical address as stated above for the service of all notices for all purposes in connection herewith.
11. This Guarantee/Performance Security is neither negotiable nor transferable and shall expire in terms of 2, where after no claims will be considered by the Guarantor. The original of this Guarantee / Performance Security shall be returned to the Guarantor after it has expired.
12. This Guarantee/Performance Security, with the required demand notices in terms of 4 or 5, shall be regarded as a liquid document for the purposes of obtaining a court order.
13. Where this Guarantee/Performance Security is issued in the Republic of South Africa the Guarantor hereby consents in terms of Section 45 of the Magistrate's Courts Act No 32 of 1944, as amended, to the jurisdiction of the Magistrate's Court of any district having jurisdiction in terms of Section 28 of the said Act, notwithstanding that the amount of the claim may exceed the jurisdiction of the Magistrate's Court.

Signed at

Date

Guarantor's signatory (1)

Capacity

Guarantor's signatory (2)

Capacity

Witness signatory (1)

Witness signatory (2)

Department of Water and Sanitation: Request for Proposals (RFP) for the selection of Independent Power Producers (BIDDERS) for energy augmentation at selected government waterworks infrastructure for a 40-year operational period in Design-Build-Finance –Own-Operate (DBFOO) mode

1.1 ADVANCE PAYMENT SCHEDULE

NOT APPLICABLE

This Advance Payment Schedule is to be read in conjunction with Clause 16.6 in the SCC. The purpose of this schedule is to itemise specific plants and materials for which the Department is prepared to make the advance payment to the supplier, subject to the conditions below.

The items of plant and materials which have been identified by the Department as being suitable for advance payment in terms of the Contract are listed in the table below. Should an item or items be added to the list at the tender stage by a tenderer, such item(s) will not be binding on the Department.

Plants and materials which have been manufactured and are stored by the supplier	Plant and materials yet to be manufactured and for which a deposit with order is required from the supplier by a third party manufacturer/supplier, and which may be stored by the supplier:
Conditions:	
1.1.1	The supplier can only rely on advance payment being permitted by the Department in respect of the plant and materials listed in the table above. The Department may, however, permit advance payment for other plant and materials in exceptional circumstances and at its sole discretion, during the course of the Contract, and upon reasonable request from the supplier.
1.1.2	Advance payment for the purposes of deposits will only be provided up to a limit of Nil %] of the value of any one item being claimed.
1.1.3	The supplier shall provide the Department with documentary evidence of the terms and conditions for which a deposit with order is required by a third-party manufacturer/supplier, together with the advance payment guarantee.
1.1.4	The supplier will also be permitted to obtain advance payment for the balance of the value of the plant and materials in respect of which he has paid a deposit, for an item which after manufacture is stored by the supplier. The supplier shall, in respect of such payment, provide an advance payment guarantee, either for such balance or, if the advance payment guarantee in respect of the deposit is to be returned by the Department upon request, for the whole value of the item.

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11. OCCUPATIONAL HEALTH AND SAFETY AGREEMENT

AGREEMENT MADE AND ENTERED INTO BETWEEN THE DEPARTMENT OF WATER AND SANITATION (HEREINAFTER CALLED THE "Department") AND

..... ,
(Supplier/Mandatory/Company/CC Name)

IN TERMS OF SECTION 37(2) OF THE OCCUPATIONAL HEALTH AND SAFETY ACT, 85 OF 1993 AS AMENDED.

I, ,
representing

..... , as an employer in its own right, do hereby undertake to ensure, as far as is reasonably practicable, that all work will be performed, and all equipment, machinery or plant used in such a manner as to comply with the provisions of the Occupational Health and Safety Act (OHSA) and the Regulations promulgated thereunder.

I furthermore confirm that I am/we are registered with the Compensation Commissioner and that all registration and assessment monies due to the Compensation Commissioner have been fully paid or that I/We are insured with an approved licensed compensation insurer.

COID ACT Registration Number:

OR Compensation Insurer: Policy No.:

I undertake to appoint, where required, suitable competent persons, in writing, in terms of the requirements of OHSA and the Regulations and to charge him/them with the duty of ensuring that the provisions of OHSA and Regulations as well as the Council's Special Conditions of Contract, Way Leave, Lock-Out and Work Permit Procedures are adhered to as far as reasonably practicable.

I further undertake to ensure that any subcontractors employed by me will enter into an occupational health and safety agreement separately and that such subcontractors comply with the conditions set.

I hereby declare that I have read and understand the Occupational Health and Safety Specifications contained in this tender and undertake to comply therewith at all times.

I hereby also undertake to comply with the Occupational Health and Safety Specification and Plan submitted and approved in terms thereof.

Signed aton the.....day of.....20....

Witness

Witness

Signed aton the.....day of.....20....

Witness

**For and on behalf of the
Department of Water and Sanitation**

Department of Water and Sanitation: Request for Proposals (RFP) for the selection of Independent Power Producers (BIDDERS) for energy augmentation at selected government waterworks infrastructure for a 40-year operational period in Design-Build-Finance –Own-Operate (DBFOO) mode

12. INSURANCE BROKERS' WARRANTY (PRO-FORM)



Letterhead of Supplier's Insurance Broker

Date:

DEPARTMENT OF WATER AND SANITATION
DIRECTOR-GENERAL
Sedibeng Building
185 Francis Baard Street
Pretoria
0001

Dear Sir

TENDER NO.: 2020/2021

TENDER DESCRIPTION: THE SELECTION OF INDEPENDENT POWER PRODUCERS (BIDDERS) FOR ENERGY AUGMENTATION AT SELECTED GOVERNMENT WATERWORKS INFRASTRUCTURE FOR A 40-YEARS OPERATIONAL PERIOD IN DESIGN-BUILD-FINANCE-OWN-OPERATE (DBFOO) MODE

NAME OF SUPPLIER:

I, the undersigned, do hereby confirm and warrant that all the insurances required in terms of the abovementioned contract have been issued and/or in the case of blanket/umbrella policies, have been endorsed to reflect the interests of the DEPARTMENT OF WATER AND SANITATION with regard to the abovementioned contract, and that all the insurances and endorsements, etc., are all in accordance with the requirements of the contract.

I furthermore confirm that all premiums in the above regard have been paid.

Yours faithfully

Signed:

For:(Supplier's Insurance Broker)

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13. SPECIFICATIONS

THE SELECTION OF INDEPENDENT POWER PRODUCERS (BIDDERS) FOR ENERGY AUGMENTATION AT SELECTED GOVERNMENT WATERWORKS INFRASTRUCTURE FOR A 40-YEAR OPERATIONAL PERIOD IN DESIGN-BUILD-FINANCE-OWN-OPERATE (DBFOO) MODE

1. BACKGROUND

Load-shedding (instituted intermittently since 2008) and significant increases in bulk electricity costs over the last number of years have had a detrimental effect on both the Department's operation and its consumers. This has resulted in the Department committing to enhance energy security and reduce bulk electricity costs through the direct a number of means including the direct procurement of electricity.

In line with its energy security, cost curtailment, and carbon neutral commitments, the Department is seeking competitive proposals from potential independent power producers to purchase electricity from power generation plants that will be connected directly to the Department's selected Government Waterworks infrastructure.

Successful Bidders will be required to enter into 40-year Power Purchase Agreements (PPAs) with the Department. The intention is to award multiple PPAs under this tender.

This tender is being developed in anticipation of regulatory changes in the energy governance landscape and the attendant opening up of new opportunities for the Department. Tenderers should take note that any adjudication or award processes pursuant to this tender are contingent upon the necessary regulatory conditions being in place to make the generation and sale of energy in terms of the tender lawful and possible.

2. SCOPE OF WORK

The Department is seeking competitive proposals from potential independent power producers for power generation projects connected to the Department's selected Waterworks infrastructure.

This tender will follow a Five (5) phase evaluation process. For the third phase, tenders will be required to submit technical proposals that meet the specified eligibility requirements. A tenderer may submit

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more than one proposal and each proposal per pump station will be evaluated separately. Successful proposals, evaluated as having met the eligibility requirements, will be awarded preferred Bidder status and may progress to the fourth phase.

All successful Bidders, after final evaluation, will be required to conclude a 40-year Power Purchase Agreement (PPA) with the Department, and should the project then need to be decommissioned, it will be done in accordance with the environmental authority's stipulations

2.1 FUNCTIONAL REQUIREMENTS

Each proposal needs to confirm, demonstrate, and quantify that it meets the following functional requirements:

- (a) Each proposal may consist of a number of component power generation plants that may use multiple technologies and may be located at different sites. Component plant(s) owned by the Department or any other municipality may not be included and will result in Bid rejection.
- (b) Component plants may be included in more than one project proposal. In such a case, only one proposal can be successful in the fourth phase.
- (c) Every component power generation plant must connect directly to the Department's selected Government Waterworks infrastructure and no wheeled energy from generators connected to grids other than the Department's Government Waterworks infrastructure will be purchased.
- (d) The successful Bidders must finance all aspects of each project proposal including design, procurement, construction, grid connection, commissioning, operation, maintenance and decommissioning as appropriate for each of the proposed plants.
- (e) The power generation project must enhance energy security and details of annual supply characteristics (energy, capacity, time of supply, dispatch-ability) must be provided for each component plant. Refer to Schedule 1 of the attached PPA.
- (f) The power generation project proposal must contribute to reduced carbon emissions and the total combined CO₂/kWh of energy supplied must be specified.

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2.2 TECHNOLOGY

All low carbon generation technologies will be considered, inter alia:

- ❖ ground-mounted/floating Solar Photo Voltaic
- ❖ Wind
- ❖ Any of the above combined with storage

Innovative technologies will also be considered. However, the proposed generation methodology must have been successfully implemented at a utility-scale, either locally or internationally, with an operational track record in the last 5 years. Technologies that have not been successfully implemented in the last 5 years and without a proven track record will not be considered in this Bid and will result in Bid rejection. Proof of operation must be provided in the Bid proposal submissions. Refer to Schedule 15.

All components of the Ground-mounted/Floating Solar PV/Wind power plant shall be in accordance with technical specifications given in relevant SANS / IEEE/ IEC / ISO or equivalent recognized standards. The design and commissioning shall be as per the latest IEEE / IEC/ SANS/ ISO or equivalent recognized standards.

The following are minimum technical measures required to ensure the quality of the major components used in solar and wind power plants.

A. Solar PV Modules

The SPV modules specified in the Bid for the Solar Power Projects must qualify for the latest edition of any of the following IEC PV module qualification test or equivalent SANS standards

- ❖ Crystalline Silicon Solar Cell Module (IEC 61215)
- ❖ Thin Film Modules (IEC 61646)
- ❖ Concentrated Photovoltaic Modules (IEC 62108)

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B. Power Inverters

The Power Inverters of the SPV power plant must conform to the latest edition of IEC/SANS/IEEE equivalent Standards as specified below:

Standards	Description
Efficiency Measurements (or equivalent SANS Standards)	IEC 61683
Environmental Testing (or equivalent SANS Standards)	IEC 60068-2/ IEC 62093
Electromagnetic Compatibility (EMC) (or equivalent SANS Standards)	IEC 61000-6-2, IEC 61000-6-4 & other relevant parts of IEC 61000
Electrical Safety (or equivalent SANS Standards)	IEC 62103/ 62109-1&2 / IS 16221-1&2
Anti-Islanding Protection (or equivalent SANS Standards)	IEEE1547/IEC 62116/ UL1741/IS 16169

C. Floating Device Standards and Codes

The Bidder shall follow the below-mentioned standards as applicable depending upon the type of Floating System used for the project but not limited to any other standard applied from time to time.

Standards	Description
ISO 22088-1:2006 (or equivalent SANS Standards)	Plastics — Determination of resistance to environmental stress cracking (ESC)
ISO16770 (or equivalent SANS Standards)	Stress cracking resistance of HDPE
SANS 241-2015	Drinking Water Standard
SANS 0228	the Code of Practice for the Identification and Classification of Dangerous Substances and Goods
ASTM D790 (or equivalent ISO/SANS Standards)	Standard Test Methods for Flexural Properties of Unreinforced and Reinforced Plastics and Electrical Insulating Materials
ISO 178 (or equivalent SANS Standards)	Plastics -- Determination of flexural properties
ASTM D638, ISO 527 (or equivalent SANS Standards)	Standard Test Method for Tensile Properties of Plastics
ASTM D695, ISO 604 (or equivalent SANS Standards)	Standard Test Method for Compressive Strength Properties of Plastics
ISO16770 (or equivalent SANS Standards)	Full Notch Creep Test (FNCT)
ASTM D2565 (or equivalent ISO/SANS Standards)	Standard Practice for Xenon-Arc Exposure of Plastic Intended for Outdoor Applications

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ASTM D4329(or equivalent ISO/SANS Standards)	Standard Practice for Fluorescent Ultraviolet (UV) Lamp Apparatus Exposure of Plastics
ASTM G7/G7M-11(or equivalent ISO/SANS Standards)	Standard Practice for atmospheric environmental exposure testing of non-metallic materials
ASTM D1693-15 (or equivalent ISO/SANS Standards)	Standard Test Method for Environmental Stress Cracking of Ethylene Plastics
ASTM D5397-07(2012) (or equivalent ISO/SANS Standards)	Standard Test Method for Environmental stress crack resistance of polyolefin geo-membrane using Notched Constant tensile load test

- a) The floatation device should be manufactured from appropriate thermoplastic with a suitable UV stabilizer or thermoset plastic with a suitable UV stabilizer or any other suitable material that shall not affect the water quality or contaminate the water. The life of the floatation device shall be able to be sustained for a minimum period of 25 years.
- b) The float system should be designed to withstand the maximum wind speed of the location as per the Wind Zone Map of South Africa and shall be able to withstand the weight of O&M Personnel, carrying Tools, the forces of nature such as wind/ water flow, etc.
- c) The material used for the floatation device shall be chemically resistant to acid, lye, petrol, and mineral oil and also partially resistant to benzene that does not contaminate the water of the reservoir.
- d) The floatation device, when installed in the raw water reservoir, shall not restrict the process of gas exchange across the air-water interface. In order to facilitate this, the design of the floatation device shall be such that appropriate voids shall form an integral part of the floatation device design.
- e) The floatation device shall have minimum strength at an ambient temperature of the site location or a minimum range of (+) 50 to (-) 10 degrees C, while it shall be designed to have a safety factor of a minimum of 1.15 in extreme conditions.
- f) The floating system shall be tested for aerodynamic design by being subjected to a wind tunnel test imposed from all wind directions on a real scale and real angle.
- g) PV fixation system shall be of proven design and subjected to Mechanical tests to withstand unit failure conditions under static and fatigue conditions for wind speeds to withstand the maximum wind speed of the area.

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D. ANCHORING/ MOORING SYSTEM

- a) The minimum design life of the Anchoring/ Mooring system shall be more than 40 years.
- b) The Anchors shall be sturdy enough to withstand maximum wind speed at that location.
- c) The anchoring system shall be able to withstand the depth/ level variation of water level.
- d) An anchoring system should be able to withstand natural forces such as wind/ water flow.
- e) The materials used in the anchoring system shall not contaminate the water of the reservoir or affect the aquatic ecosystem.
- f) The anchoring system should withstand extreme weather conditions. (Extreme weather conditions would mean the maximum wind velocity, water velocity, and other natural forces that may impact the anchoring systems. As the project is to be sustained for 40 years. Bidders are advised to consider the extreme weather conditions of the project site while designing the anchoring system. Such as wind velocity may be referred from the Wind Zone Map of South Africa for the proposed site)
- g) The design of the anchoring system shall be certified by an accredited national/ international lab to fulfill the above conditions.
- h) The Anchoring/ Mooring system may comply with the latest edition of API RP 2SK / ISO 19901-2013 or any applicable standards.

E. CABLES AND CONNECTORS

- a) All cables and connectors to be used for installation of the solar field must be of solar grade and can withstand harsh environmental conditions for 40 years and voltages as per the latest IEC standards. It is recommended that the Cables of 600-1800 Volts DC for outdoor installations should comply with the SANS 10142 for the service life expectancy of 40 years.
- b) Wherever the cables pass through water, the marine grade cables shall be used.
- c) AC cable shall comply with the relevant SANS code and should withstand the system current and voltage.

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F. EARTHING

Earthing system shall comply with the latest revisions and amendments of the relevant IEEE / SANS / IEC standards and SANS codes. In particular, the earthing system shall comply with the following standards and codes.

Standard	Description
SANS 10142-1	Code of Practice for the Wiring of Premises
IEEE 80 (or equivalent SANS Standards)	IEEE Guide for Safety in AC Substation Grounding
IEEE 142 (or equivalent SANS Standards)	IEEE Recommended Practice for Grounding of Industrial and Commercial Power Systems

G. WIND TURBINE GENERATORS

Wind Turbine Generators shall comply with the latest revisions and amendments of the relevant SANS / IEC standards.

Standard	Description
SANS/IEC 61400	Wind turbine generator systems

H. AUTHORIZED TEST CENTRES

The PV Modules/ Power Conditioners deployed in the Power Plants must have valid test certificates for their qualification as per the above specified IEEE / IEC / SANS Standards by one of the Accredited Test Centres in South Africa. In case of module types/ equipment for which such Test facilities may not exist in South Africa at present, test certificates from reputed International Laboratory Accreditation Cooperation Member body accredited Labs abroad will be acceptable.

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I. WARRANTY

- a) PV modules must be warranted with a linear degradation rate of power output except for the first year and shall guarantee 80% of the initial rated power output at the end of 40 years.
- b) The modules shall be warranted for a minimum of 10 (Ten) years against all material/ manufacturing defects and workmanship.
- c) The Inverters/ PCUs installed in the solar power plant must have a warranty for 5 (Five) years.
- d) The mechanical structures and electrical works must be warranted for a minimum of 5 (Five) years.
- e) The overall workmanship of the grid solar power plants must be warranted for a minimum of 5 (Five) years.
- f) The Floats should be Warranted for at least 40 (forty) years.
- g) The Anchoring/ Mooring System should be warranted for at least 40 (forty) years.

2.3 PERFORMANCE MONITORING

As part of the performance monitoring, the following shall be carried out:

- 1. The supplier must install the necessary equipment to continuously measure solar radiation on the module plane, ambient temperature, wind speed, and other weather parameters and simultaneously measure the generation of DC power as well as AC power generated from the plant. They will be required to submit this data to the Department online and/ or through a report on a regular basis every month for the entire duration of PPA.
- 2. The plant SCADA should be built over Industrial Internet of Things (IoT) architecture with integrated Analytics, secure web access, firewalls, enterprise software and Database, capable of supporting a wide range of field protocols for communication with different field equipment/sensors synchronized to GPS clock for providing real-time online data (including but not limited to irradiance, plant generation (instantaneous/ daily/ monthly/ yearly), Daily Peak Generation, temperature, wind speed, float movement, etc.) to the Department.
- 3. Web-based monitoring should be available, which should not be machine-dependent. The web-based monitoring should provide the same screens as available in the plant. Also, it should be possible to download reports from a remote web client in PDF or Excel format.

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2.4 SAFE DISPOSAL OF SOLAR PV MODULES

The supplier must ensure that all Solar PV modules, floats, and other components from their plant after their ‘end of life’ (end of the term of PPA in consultation with the Department) (when they become defective/ non-operational/ non-repairable) are disposed of in accordance with the “National Environmental Management: Waste Act (No. 59 of 2008) – Landfill and Extended Producer Responsibility Regulations of 2021” notified by the Government and as revised and amended from time to time.

2.5 STATUTORY APPROVALS

Any neglect or omission or failure on the part of the bidder in obtaining necessary clearances and reliable information upon the forgoing or any other matter affecting the bid shall not relieve him from any risks or liabilities or the entire responsibility for completion of the work in accordance with the bid.

2.6 SITE LOCATION AND ACCESS

The generation plant must connect to the Department of Water and Sanitation’s connection point.

The following information must be supplied at the first Bid stage:

Table 1: Project generation information

Generator Information	
Peak Generation Capacity (MW ac):	
Location of site specifying point of power evacuation/connection:	
Land requirements (hectares) and evidence of authorization of use (rental agreement/title deed):	
Type of Technology e.g Wind, Solar, etc	
The required voltage level of grid connection in kV	

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A detailed description of how the technology works must be provided with the proposal submission. A project timeline including authorizations and license approval stages, construction, and commissioning must be provided with the submission. Failure to submit these will result in Bid rejection. Bidders will be provided a time frame not exceeding three years to design, construct and commission the plant from the date of the signed PPA.

Table 2: Additional project readiness details

Project Readiness	
Period to Commercial Operation Date after notice to proceed granted/PPA signed (months):	
Status of Generation Fuel and supply agreements, if applicable:	
Status of Environmental Authorisation, if applicable, granted or initiated? Details.	
Land ownership/lease agreement:	
Status of required permits (Y/N) - details of both those granted and outstanding with associated timeframes to be provided: e.g. wayleaves, servitudes, grid code compliance, etc	

2.7 SITE VISIT AND VERIFICATION OF INFORMATION

- 2.7.1 Bidders are encouraged to submit their respective Bids after visiting the Project site and ascertaining for themselves the site conditions, location, surroundings, climate, availability of power, water, and other utilities for construction, access to the site, handling and storage of materials, weather data, applicable laws and regulations and any other matter considered relevant by them.
- 2.7.2 Bidder shall carry out the detailed site survey including bathymetric study, water body characteristics, geotechnical investigations, etc., and shall apprise himself regarding information such as water properties (such as TDS content, etc.), depth of the reservoir (i.e. Full Supply Level (FSL) Minimum Drawdown Level (MDL), Dead Storage Level, etc.), variation in the depth of water reservoir, water flow rate/current, climatic conditions, requirements of statutory approvals etc., before submitting the Bid.

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2.7.3 It shall be deemed that by submitting a Bid, the Bidder has:

- a) made a complete and careful examination of the Bidding documents;
- b) received all relevant information requested from the Department;
- c) acknowledged and accepted the risk of inadequacy, or furnished by or on behalf of the Department relating to any of the matters referred to in Clauses 2.7.1 and 2.7.2 above;
- d) satisfied itself about all matters, things, and information including matters referred to in Clauses 2.7.1 and 2.7.2 hereinabove necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding documents, and performance of all of its obligations thereunder;
- e) acknowledged and agreed that inadequacy, lack of completeness, or incorrectness of the information provided in the Bidding documents or ignorance of any of the matters referred to in Clauses 2.7.1 and 2.7.2 herein above shall not be a basis for any claim for compensation, damages, the extension of time for performance of its obligations, loss of profits, etc. from the Department, or a ground for termination of the PPA by the Bidder(s);
- f) Acknowledge that it does not have a conflict of interest; and
- g) Agreed to be bound by the undertakings provided by it under and in terms hereof.
- h) Agreed that visited site locations and understood ESKOM distribution system and transmission system.

Bidder shall submit the site inspection declaration as per Schedule 8.

The Department shall not be liable for any omission, mistake, or error on the part of the Bidder in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the Bid, the Bidding documents, or the Bidding process, including any error or mistake therein or in any information or data given by the Department.

2.8 AUTHORIZATIONS AND LICENCES

The Bidder is required, within the scope of the proposed project, to assess what authorizations and licenses are necessary for all aspects of the proposed facility, including but not necessarily limited to environmental, air quality, waste, water, electricity generation, and land use authorizations and licenses, and to set these out in the Bid.

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The Bidder must set out in the Bid the anticipated processes and timeframes for obtaining all such authorizations and licenses. Any award made in terms of this tender will be subject to termination in the event of any such authorizations or licenses being refused or becoming unobtainable for any reason.

2.9 LOCAL PARTICIPATION

It is recommended that Bidders employ local people/contractors during the construction and/or operational stages of the project as far as possible.

2.10 PUMP STATION LOCATION & NOTIFIED MAXIMUM DEMAND

Identified Pump Stations for interconnection, the grid substation capacity limits for new wind and/or solar projects to be connected, and the connection voltage level are given below:

Index Number	Government Waterworks Infrastructure	Operation Cluster	NOTIFIED MAXIMUM DEMAND (NMD) in MVA	GPS Coordinates of the Pump Station	
				Latitude (S)	Longitude (E)
1	Mokolo Pump Station	Northern	4.74	23.975177	27.721435
2	Tswasa Pump Station	Northern	1.0	24.735829	26.417561
3	Grootfontein (Molopo) Pump Station	Northern	0.35	25.921366	25.863092
4	Nandoni Pump Station	Northern	4.0	22.972510	30.599826
5	Steelpoort Pump Station	Northern	16.0	24.894498	30.006927
6	Scheiding Pump Station	Central	10.0	29.902837	24.701852
7	Teenfontein	Central	3.65	29.783946	26.910288
8	Nottingham	Central	7.4	29.161031	23.697609
9	Zaaihoek	Central	7.0	27.433611	30.075000
10	VRESAP	Central	28.85	26.877425	28.252023
11	Jericho	Central	15.0	26.489167	30.483889
12	Grootfontein	Central	9.0	26.679122	29.280935
13	KWASAP / Rietfontein	Central	3.2	26.356528	29.214116
14	Grootdraai and Tutuka	Central	9.7	26.916890	29.295545
15	Geelhoutboom	Central	18.3	26.919722	30.329444
16	Heyshope	Central	10.0	26.994722	30.524722
17	Spring Grove Pump Station	Eastern	1.0	29.319389	29.966528
18	Lavumisa Pump Station	Eastern	0.6	27.354372	31.884592
19	Dasbos Pump Station	Southern	9.0	33.907306	19.054000

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2.11 LAND AND WATER BODY SURFACE AREA

The Bidder shall procure or lease the land with an extent of at least 3 acres (1.21 hectares) per 1MW, AC for a solar PV/Wind plant. For higher capacities, the required land extent shall be based on the above ratio. However, the Bidder shall propose a land extent lesser than the above ratio provided that the proposed plant design/layout be submitted with the proposal to support the above claim.

Geographically separated land lots are not allowed to Bid for a single power plant. It is required to submit one of the following sets of documents to confirm the ownership or the ability to procure or lease the selected land.

- ❖ In the case of the Department's land, an approval letter will be issued by the Department indicating that land can be leased out (at least for 42 years) for this Wind/Solar Power Project. The relevant survey plan (clearly indicating the land extent to be utilized for the plant) and complete details of the land shall be provided with the Bidl.
- ❖ In the case of land owned by a state institution, an approval letter from the Director-General of the relevant line Department stating that the particular land could be provided (at least for 42 years) in the future to the Bidder for the establishment of the proposed Solar/Wind Power Project. The relevant survey plan (clearly indicating the land extent to be utilized for the plant) and the complete details of the land shall be provided with the Bid.
- ❖ A copy of the Deed of the land in favour of the Bidder, certified by an Attorney-at-Law with the survey plan (clearly indicating the land extent to be utilized for the plant) if the Bidder is the current owner. It is compulsory to register the deed in the Deeds Registry to consider for evaluation. (Submit supporting documents to claim the same).
- ❖ A copy of the Lease Agreement (at least for 42 years) of the land in favour of the Bidder, certified by an Attorney-at-Law with the survey plan (clearly indicating the land extent to be utilized for the plant) if the Bidder has already leased the land. It is compulsory to register the deed in the Deeds Registry to consider for evaluation. (Submit supporting documents to claim the same).

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- ❖ “Agreement to sell” in favour of the Bidder, attested by a Notary Public, reserved for a period of at least 6 months from the closing date of submission of the Bid with the certified copy of the Deed of the land and the survey plan (clearly indicating the land extent to be utilized for the plant). It is compulsory to register the “Agreement to sell” in the Deeds Registry to consider for evaluation. (Submit supporting documents to claim the same)
- ❖ “Agreement to lease” (at least for 42 years) in favour of the Bidder, attested by a Notary Public, reserved for a period of at least 6 months from the closing date of submission of the Bid, with the certified copies of the Deed of the land and the survey plan (clearly indicating the land extent to be utilized for the plant). It is compulsory to register the “Agreement to lease” in the Deeds Registry to consider for evaluation. (Submit supporting documents to claim the same)

Option to Change the Land After Awarding Stage:

If the Bidder is unable to implement the Wind/Solar PV Project in the land which is indicated in the RFP due to practical reasons beyond its control:

- ❖ The Bidder shall immediately notify the Department with supporting documents for the claimed reasons. The selected new suitable land shall be able to connect to the same Grid Substation.
- ❖ Based on the above, the Department at its sole discretion shall notify the approval of the land change.
- ❖ Upon the receipt of Department approval, without awaiting the new Grid Interconnection arrangement from the Department, the Bidder shall promptly act to obtain the deed or lease agreement as per above.
- ❖ The risk with regard to the incremental cost of the new Grid Interconnection arrangement to be prepared later by the Department shall be absorbed within the originally offered proposal tariff.
- ❖ The Department shall initiate preparing the Grid Interconnection Proposal for the changed land upon the submission of the Deed/Lease Agreement for private lands or an approval letter from the relevant authority for State Lands and after signing the Letter of Intent.

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2.12 LICENCE CONDITIONS AND ACCESS TO INFRASTRUCTURE

- ❖ The DWS will ensure that the conditions and other specifications set in a water use licence will protect the water resources and the infrastructure in respect of which the power generation will be operated, as well as that it will enhance monitoring and control of all activities for the duration of a licence.
- ❖ In addition to this when dealing with new or existing government infrastructure, the signing of an agreement between the Deputy Director-General: Infrastructure Management (DDG: IM) and the license for the use of the infrastructure, containing the terms and conditions and technical requirements that the licensee needs to comply with, before any activities may be started, will be a firm condition in the relevant licence.
- ❖ Where the solar power generation activity necessitates the utilization of government infrastructure, the relevant Bidder should acquire confirmation for such use from the DDG: IM. This is to ensure that the technical feasibility and operational risks of the infrastructure to be used are adequately considered and to inform the bidder(s) of the requirements that the DWS will implement through a contractual agreement with such bidders(s) and the water use charges that may be set, as well as conditions to be included in the water use licence in order to ensure the integrity of all technical and legal aspects.
- ❖ With regard to the safe use of government waterworks infrastructure, a proper alignment between the water use license and the licensee for the use of the infrastructure will be undertaken to ensure that the licences issued to licensees by the Chief Director: Water Use Licence Management or Regional Head should not be used to operate power generation plants outside the conditions set in agreements with the DDG: IM. Therefore, two separate processes would therefore be executed in such a way that it will satisfy the requirements of the National Water Act 36 of 1998 in terms of the roles and responsibilities of the relevant branches within the DWS, and also being practically feasible.

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2.13 PROJECT MILESTONES SCHEDULE

Activity	Date (Number of Days from Advertisement Date)
Issue of Request for Proposal Documents : (Date of Advertisement)	22 September 2023
Requests for Clarification :	15 October 2023, (21)
Compulsory Clarification Meeting :	20 October 2023 (28)
Closing Date of Submission of Bids :	29 March 2024 by 11H00 (189 days 6 months)
Issue Letter of Award :	After Departmental Adjudication Committee approval, approximately less than 21 days from the date of submission of Bids
Acceptance of Letter of Award :	Within 07 days from the receipt of the Letter of Award
Letter of Intent (LOI)	Within 30 days from the receipt of the Letter of Award
The signing of the Power of Purchase Agreement (PPA)	Within 04 months from the date of issue of the Letter of Intent
Financial Closure	Within 04 months from the date of Signing the PPA
Commencement of Construction Activities	Within 05 months from the date of Signing the PPA
Commissioning and Testing	Within 36 months from the date of Signing the PPA
Commercial Operation Date	Within 38 months from the date of Signing the PPA

3 TRADE NAMES OR PROPRIETARY PRODUCTS

Bid specifications may not make any reference to any particular trademark, name, patent, design, type, specific origin, or producer, unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words “or equivalent”.

TENDERERS MUST NOTE THAT WHEREVER THIS DOCUMENT REFERS TO ANY PARTICULAR TRADEMARK, NAME, PATENT, DESIGN, TYPE, SPECIFIC ORIGIN, OR PRODUCER, SUCH REFERENCE SHALL BE DEEMED TO BE ACCOMPANIED BY THE WORDS ‘OR EQUIVALENT’

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4 EMPLOYMENT OF SECURITY PERSONNEL

All security staff employed by the supplier on behalf of the Department or at any Department property must be registered with Private Security Industry Regulatory Authority (PSiRA). Proof of such registration must be made available to the Department's agent upon request.

5 FORMS FOR CONTRACT ADMINISTRATION

The supplier shall complete, sign and submit with each invoice, the following:

- Monthly Project Labour Report (Annex 1).
- B-BBEE Sub-Contract Expenditure Report (Annex 2).
- Joint Venture Expenditure Report (Annex 3).

The Monthly Project Labour Report must include details of all labour (including that of sub-contractors) that are South African citizens earning less than R350.00 per day, as adjusted from time to time (excluding any benefits), who are employed on a temporary or contract basis on this contract in the month in question.

In addition to the Monthly Project Labour Report the Supplier shall simultaneously furnish the Department's Agent with copies of the employment contracts entered into with such labour, together with certified copies of identification documents, proof of attendance in the form of attendance register or timesheets as well as evidence of payments to such labour in the form of copies of payslips or payroll runs. If the worker is paid in cash or by cheque, this information must be recorded on the envelope and the worker must acknowledge receipt of payment by signing for it and proof of such acknowledgement shall be furnished to the Department's Agent.

The Monthly Project Labour Reports shall be completed and submitted in accordance with the instructions therein.

The B-BBEE Sub-Contract Expenditure Report is required for monitoring the supplier's compliance with the sub-contracting conditions of the Preference Schedule.

The Joint Venture Expenditure Report is required for monitoring the joint venture's / consortium / partnership compliance with the percentage contributions of the partners as tendered, where the joint

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venture/consortium/partnership has been awarded preference points in respect of its consolidated B-BBEE scorecard.

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11. MONTHLY PROJECT LABOUR REPORT (EXAMPLE)

Annex: 1

DEPARTMENT OF WATER AND SANITATION

MONTHLY PROJECT LABOUR REPORT

General

1. The Monthly Project Labour Reports must be completed in full, using typed, proper case characters alternately, should a computer not be available, handwritten in black ink.
2. Incomplete/incorrect/illegible forms will not be accepted
3. Any conditions relating to targeted labour stipulated in the Contract (in case of contracted-out services or works) shall apply to the completion and submission of these forms.
8. Was the beneficiary sourced from the Local Municipality's job seeker database?
9. The contract end date as stated in the beneficiary's employment contract.
10. Where a beneficiary has not worked in a particular month, the beneficiary's name shall not be reflected on this form at all for the month in question.

Project Details

4. If a field is not applicable insert the letters N/A
5. On completion of the contract or works project the anticipated end date must be updated to reflect the actual end date
11. Training will be recorded separately from normal working days and together shall not exceed the maximum of 23 days a month.
12. Workers earning more than the maximum daily rate (currently R450 excluding benefits) shall not be reflected on this form.

Beneficiary Details and Work Information

6. Care must be taken to ensure that beneficiary details correspond accurately with the beneficiary's ID document
7. A new beneficiary is one in respect of which a new employment contract is signed in the current month. A certified ID copy must accompany this labour report on submission
- Submission of forms**
13. Signed hardcopy forms must be scanned and submitted to the DWS's Project Manager in electronic (.pdf) format.
14. Scanned copies of all applicable supporting documentation must be submitted along with each monthly project labour report. Copies of employment contracts and ID documents are only required in respect of new beneficiaries.

PROJECT DETAILS

Contract or Works Project Name		DWS Supplied Project Number	
Directorate		Department	
Contractor or Vendor Name		Contractor or Vendor Email Address	
Contractor or Vendor Contact Person		Contractor or Vendor Tel. Number	CELL WORK
Project Labour Report Current Month (Mark with "X")			
JAN	FEB	MAR	APR
MAY	JUN	JUL	AUG
SEP	OCT	NOV	DEC
Year			

Actual Start Date (yyyy/mm/dd)		Anticipated / Actual End Date (yyyy/mm/dd) (7)	
Total Project Expenditure / Value of Work Done To Date (Including All Costs, But Excluding VAT)			

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Annex: 1 (continue)

TENDER NO: _____

MONTHLY PROJECT LABOUR REPORT
BENEFICIARY DETAILS AND WORK INFORMATION

Contract or Works Project Name:							Year	Month	Sheet			
									1	of		

No.	(8) First Name	(8) Surname	(8) ID Number	(9) New Beneficiary (Y/N)	Gender (M/F)	Disabled (Y/N)	(10) Job Seeker Database (Y/N)	Contract Start Date (DD/MM/YY)	Contract End Date (DD/MM/YY)	(12) No. days worked this month (excl. training)	(13) Training Days	(14) Rate of pay per day (R-c)
1												
2												
3												
4												
5												
6												
7												
8												
9												
10												
11												
12												
13												
14												
15												
16												
17												
18												
19												
20												

Signatures

Declared by the Contractor to be true and correct: _____ **Date:** _____

Verified by Employer's Agent/Representative: _____ **Date:** _____

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12. BBEE SUB-CONTRACT EXPENDITURE REPORT (EXAMPLE)

Annex: 2

TENDER NO. AND DESCRIPTION: _____

SUPPLIER: _____

B-BBEE SUB-CONTRACT EXPENDITURE REPORT

Rand Value of the contract (as defined in Schedule 3: Preference Schedule) (P*)		R	B-BBEE Status Level of Prime Supplier		
---	--	---	---------------------------------------	--	--

Name of Sub-contractor (list all)	B-BBEE Status Level of supplier ¹	Total value of Subcontract (excl. VAT) ¹	Value of Sub-contract work to date (excl. VAT) ¹	Value of Sub-contract work to Sub-contractors with a lower BBEE Status Level than the supplier
Sub-contractor A		R	R	R
Sub-contractor B		R	R	R
Sub-contractor C		R	R	R

1Documentary evidence to be provided	Total:	R
	Expressed as a percentage of P*	%

Signatures

Declared by the supplier to be true and correct: _____ **Date:** _____

Verified by DWS Project Manager: _____ **Date:** _____

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13. PARTNERSHIP/ JOINT VENTURE (JV) / CONSORTIUM/ EXPENDITURE REPORT (PRO FORMA)

Annex: 3

TENDER NO. AND DESCRIPTION: _____

SUPPLIER: _____

PARTNERSHIP/ JOINT VENTURE (JV)/ CONSORTIUM EXPENDITURE REPORT

Rand value of the contract (as defined in Schedule 3: Preference Schedule) (P*)	R	B-BBEE Status Level of Partnership/ Joint Venture (JV)/ Consortium	
---	---	--	--

Name of partners to the Partnership/ JV / Consortium (list all)	B-BBEE Status Level of each partner at contract award	Percentage contribution of each partner as per the Partnership/ JV/ Consortium Agreement ¹ A	Total value of partner's contribution (excl. VAT) ¹ B = A% x P*	Value of partner's contribution to date (excl. VAT) ¹ C	Value of partner's contribution as a percentage of the work executed to date D = C/P*x100
Partner A		%	R	R	%
Partner B		%	R	R	%
Partner C		%	R	R	%

¹Documentary evidence to be provided

Signatures

Declared by the supplier to be true and correct: _____ **Date:** _____

Verified by DWS Project Manager: _____ **Date:** _____

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14. LIST OF ABBREVIATIONS

COD	Commercial Operation Date
EIA	Environmental Impact Assessment
kV	kilovolt
kWh	Kilowatt hour
MVA	Megavolt ampere
MW	Megawatts
PPA	Power Purchase Agreement
PV	Photo Voltaic
SLA	Service Level Agreement
TOU	Time of Use
POC	Point of connection

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15. LIST OF ANNEXURES

Annexure 1: FAQ fo IPPS

Annexure 2: Dam Volume-Area Data

Annexure 3: Dam Water Level Data

Annexure 4: Hydrographic Survey Sata

Annexure 5: Energy Consumption Profile

Annexure 6: Google Earth kmz file

Annexure 7: Power Purchase Agreement

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REQUEST FOR PROPOSALS (RFP)

FOR

THE SELECTION OF INDEPENDENT POWER PRODUCERS

(BIDDERS)

FOR

ENERGY AUGMENTATION AT SELECTED GOVERNMENT

WATERWORKS INFRASTRUCTURE

FOR

A 40-YEARS OPERATIONAL PERIOD

ON

DESIGN-BUILD-FINANCE-OWN-OPERATE (DBFOO) MODE

VOLUME IV: POWER PURCHASE AGREEMENT