



**DEPARTMENT OF WATER AND SANITATION  
REPUBLIC OF SOUTH AFRICA**

DUE AT 11:00 ON

**(CLOSING DATE: 19 JANUARY 2023)**

**DWS10-1122 WTE**

**THE SUPPLY AND DELIVERY OF SAND FILTER MATERIAL FOR NKADIMENG  
DAM SAFETY REHABILITATION PROJECT FOR A PERIOD OF THREE (3)  
MONTHS**

**SUBMIT BID DOCUMENTS TO:**

**POSTAL ADDRESS:**  
DIRECTOR-GENERAL:  
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

Compulsory Briefing Session

Date: 29 November 2022

Time: 10:00am

Venue: Nkadimeng Dam, located near Pshirwari River, 15 KM North West of Jane Furse in the  
Sekhukhune District of the Limpopo Province

GPS Coordinates: S 24° 38' 17" – E 29° 59' 07"

BIDDER: (Company Address OR Stamp)

**COMPILED BY: CONSTRUCTION**

**DEPARTMENT OF WATER AND SANITATION**

**DWS10-1122 WTE**

**THE SUPPLY AND DELIVERY OF SAND FILTER MATERIAL FOR NKADIMENG DAM SAFETY  
REHABILITATION PROJECT FOR A PERIOD OF THREE (3) MONTHS**

**CONTENTS**

INVITATION TO BID (SBD 1)

SECTION 1: LEGALITIES

SECTION 2: TENDER DATA

SECTION 3: PRICING SCHEDULE

SECTION 4: SAMPLE IDENTIFICATION CARDS

## PART A INVITATION TO BID

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)</b>					
BID NUMBER:	DWS10-1122 WTE	CLOSING DATE:	19 JANUARY 2023	CLOSING TIME:	11:00AM
DESCRIPTION	THE SUPPLY AND DELIVERY OF SAND FILTER MATERIAL FOR NKADIMENG DAM SAFETY REHABILITATION PROJECT FOR A PERIOD OF THREE (3) MONTHS				
<b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)</b>					
THE BID BOX AT THE ENTRANCE					
OF ZWAMADAKA BUILDING					
157 FRANCIS BAARD STREET, PRETORIA, 0001					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>		
CONTACT PERSON			CONTACT PERSON	L. Kumalo	
TELEPHONE NUMBER	012 336 6562 / 7780 / 7596 / 8241		TELEPHONE NUMBER	083 446 9271	
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	<a href="mailto:Bidenquirieswte@dws.gov.za">Bidenquirieswte@dws.gov.za</a>		E-MAIL ADDRESS	KumaloL@dws.gov.za	
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		<b>OR</b>	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKSOFFERED?	<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 ]	
<b>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <input type="checkbox"/> YES <input type="checkbox"/> NO					
DOES THE ENTITY HAVE A BRANCH IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO					
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO					
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO					
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? <input type="checkbox"/> YES <input type="checkbox"/> NO					
<b>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.</b>					

## T1.2 PART B TERMS AND CONDITIONS FOR BIDDING

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

**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: .....

## **DEPARTMENT OF WATER AND SANITATION**

**DWS10-1122 WTE**

### **THE SUPPLY AND DELIVERY OF SAND FILTER MATERIAL FOR NKADIMENG DAM SAFETY REHABILITATION PROJECT FOR A PERIOD OF THREE (3) MONTHS**

#### **SECTION 1: LEGALITIES**

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1. Instructions to Bidders
2. Declaration of Interest (SBD 4)
3. Preference Points Claim in terms of the Preferential Procurement Regulation, 2017 (SBD 6.1)
4. Instructions to Bidders: Purchases (ANNEXURE 7)
5. National Treasury General Conditions of Contract

**DEPARTMENT OF WATER AND SANITATION**

**DWS10-1122 WTE**

**THE SUPPLY AND DELIVERY OF SAND FILTER MATERIAL FOR NKADIMENG DAM SAFETY REHABILITATION PROJECT FOR A PERIOD OF THREE (3) MONTHS**

**1. INSTRUCTIONS TO BIDDERS**

**CONTENTS**

1. Issuing of documents
2. Queries with respect to this bid
3. Completion of Bids
4. Submission of Bids
5. Signature on Bids
6. General Conditions of Contract
7. Bidders to comply with documents
8. Telegraphic bids
9. The Department's right to decline any bid
10. Department is not liable for bidder's expenses
11. Payments made under this contract
12. Evaluation Criteria
13. Rejection of bids
14. Results of bids

## INSTRUCTIONS TO BIDDERS

### 1. ISSUING OF DOCUMENTS

- (a) A complete set of bid documents are available from the DWS website.
- (b) Bidders must satisfy themselves that the document is complete and conform to the index of this document. Should any figures or writing be indistinct or should any pages be missing from this document or should this document or the drawing(s) contain any obvious errors, the Bidders must immediately notify the Department in order to have any discrepancy rectified or clarified before submitting his bid. Such clarification will be valid only if made by the Department by means of formal amendment as described hereunder prior to the date of submission of bids. The Department may issue amendments to clarify or modify the Bid Documents. A copy of each amendment will be issued to each bidder and shall be acknowledged on the form issued with the amendments. No claim whatsoever will be entertained for faults in the bid price resulting from the above-mentioned discrepancies.
- (c) No alterations, omissions or additions shall be made to this document, but should it be deemed necessary to do so, the Bidder is at liberty to qualify his bid.
- (d) All Bidders shall be deemed to have waived, renounced and abandoned any conditions printed or written upon any stationery used by them for the purpose of or in connection with the submission of bids which are in conflict with the conditions laid down in this document.
- (e) Each page of the completed document that will be submitted should be initialled by the Bidder at the bottom of the page.

### 2. QUERIES WITH RESPECT TO THIS BID

Bidding enquiries may be directed to [Bidenquirieswte@dws.gov.za](mailto:Bidenquirieswte@dws.gov.za) and technical enquiries may be directed to [KumaloL@dws.gov.za](mailto:KumaloL@dws.gov.za)

### 3. COMPLETION OF BIDS

- (a) The bid must be signed on the Invitation to Bid form (SBD 1) annexed hereto with all blanks in the bid and the appendix filled in.
- (b) All spaces in the bid forms and other annexures shall be completed in full.
- (c) **Section 3 in the bid document and the Pricing Schedule must be fully completed and priced out by the bidder. Failure to do so will deem your bid invalid.**
- (d) The bid documents shall not be separated in any way nor must any pages be detached from the original documents.

### 4. SUBMISSION OF BIDS

- a) In the case where a potential successful bidder is only a supplier but not the actual producer and will procure the products from a producer or another supplier and did not submit a letter from that producer/supplier confirming supply arrangement(s) in this regard by the closing time of this bid, such a letter must be submitted within **14 days** after the receipt of a "**Letter of Notification to Bidder**" from this Department. Failure to comply with this requirement within 14 calendar days shall result in the bid being awarded to another bidder.
- b) The Bid Document shall be completed, signed and submitted as follows:
  - i. **One copy and one original** of the Bid Documents shall be duly completed, signed and submitted as follows:

The original Bid, together with a covering letter and supporting documents, shall be sealed in an envelope endorsed:

**"ORIGINAL BID DWS10-1122 WTE FOR BID THE SUPPLY AND DELIVERY OF SAND FILTER MATERIAL FOR NKADIMENG DAM SAFETY REHABILITATION PROJECT FOR A PERIOD OF THREE (3) MONTHS"**

and the name of the Bidder shall be clearly shown.

- ii. The duplicate copy of the Bid, together with duplicate copy of the covering letter and supporting documents, shall be sealed in a separate envelope endorsed:

**"DUPLICATE OF ORIGINAL BID DWS10-1122 WTE FOR BID THE SUPPLY AND DELIVERY OF SAND FILTER MATERIAL FOR NKADIMENG DAM SAFETY REHABILITATION PROJECT FOR A PERIOD OF THREE (3) MONTHS**

and the name of the Bidder shall be clearly shown.

- iii. Both the "Original" and "Duplicate" copy of the Bid, each in their separate sealed envelopes, shall be placed in a single sealed envelope endorsed:

**"ORIGINAL BID DWS10-1022 WTE FOR BID THE SUPPLY AND DELIVERY OF SAND FILTER MATERIAL FOR NKADIMENG DAM SAFETY REHABILITATION PROJECT FOR A PERIOD OF THREE (3) MONTHS"**

and the name of the Bidder shall be clearly shown.

- iv. Bids sealed and endorsed as above, should be deposited in the bid box at the entrance of the ZwaMadaka Building, 157 Francis Baard Street, Pretoria and not later than 11:00 on the date stipulated on the front cover of this document.

## **5. SIGNATURE ON BIDS**

If the bid is submitted by joint venture of more than one person and/or Companies and/or firms it shall be accompanied by the following:

- (a) The original or a notarial certified copy of the original document under which such joint venture was constituted which must define precisely inter alia the conditions under which the joint venture will function, its period of duration and the participation of the several constituent persons and/or companies and/or firms.
- (b) A certificate signed by or on behalf of each participating person and/or company and/or firm authorising the person who signed the bid to do so.

## **6. GENERAL CONDITIONS OF CONTRACT**

The General Conditions of Contract, as attached shall be regarded as an integral part of the contract documents.

## **7. BIDDERS TO COMPLY WITH DOCUMENTS**

Where applicable, Bidders must allow in their Bids for all labour, material, machinery and everything necessary for the execution and completion of the Contract in accordance with the bid documents. No alterations may be made in the Invitation to Bid, Schedule of Quantities or other documents and the bid will be deemed to comply entirely with the terms of the documents.

## **8. TELEGRAPHIC BIDS**

No bid forwarded by telegram, telex, facsimile, e-mail or similar apparatus will be considered.

## **9. THE DEPARTMENTS RIGHT TO DECLINE ANY BID**

The Department does not bind itself to accept the lowest or any bid.

## **10. DEPARTMENT NOT LIABLE FOR BIDDER'S EXPENSES**

The Department will not be held liable for any expenses incurred in preparing and submitting bids.

## **11. PAYMENTS UNDER THE CONTRACT**



All payments due to the Bidders in terms of the contract will be done by means of Electronic Fund Transfer.

**12. EVALUATION CRITERIA**

Bids will be evaluated in five (5) phases as per Preferential Procurement Regulations, 2017 issued in terms of section 5 of the Preferential Procurement Policy Framework Act, Act number 5 of 2000 (PPPFA). The bidder scoring the highest points in phase 5 Price and Preference (80/20) will be recommended for award. Five (5) evaluation phases are as follows: **Mandatory requirements, Pre-qualification criteria, Administrative compliance, Testing of samples and Price and Preference Points Claimed**

**Phase 1:**

**Mandatory requirements**

Failure to attend compulsory briefing session will render your bid non-responsive and will be disqualified.

No	Criteria	Yes	No
1	Attendance of compulsory briefing session		

**Phase 2:**

**Prequalification criteria**

**Preferential procurement regulations, 2017, Regulation 4**

Prequalification criteria will be used in this bid to advance designated groups on the basis of B-BBEE Status Level of contributor and EME's

Failure to meet the below indicated prequalification criteria in terms of the PPR, 2017, Regulation 4 will automatically disqualify your bid.

- **B-BBEE Status Level of contributor**

Level 1
X

- **EME**

EME
X

- Bidders will be prequalified on the basis of attaining B-BBEE Status Level 1 to be eligible for further evaluation. Bidders with B-BBEE Status Level other than 1 will not be eligible for further evaluation.

NB: Bidders are requested to submit a copy of valid B-BBEE certificate or original Sworn Affidavit.

- Bidders who are above Level 1 of B-BBEE Level Contributor and who are not EME will not be considered for this bid.

### Phase 3:

#### Administrative Compliance:

Bidders are required to comply with the following listed below

No	Criteria	Yes	No
1	Companies must be registered with National Treasury's Central Supplier Database. Provide MAAA number on SBD1		
2	Tax compliance status pin code (to be verified through CSD or SARS) Attach a copy of Tax compliance pin page		
3	Active registration with Company Intellectual Property Commission (to be verified through CSD and CIPC). Attach copy of CIPC / CIPRO certificate.		
4	An original sworn affidavit. (Failure to submit, the Bidder will forfeit the preferential points to be claimed).		
5	The Bid must be signed by a director of the company or a duly authorised person and proof of such authority must be submitted with the bid.		
6	A valid letter of Good Standing with the Compensation Commissioner in terms of the Compensation for Occupational Injuries and Diseases Act No 130 of 1993 and or third parties insurance registered with Financial Service Board. (verification will be done with the relevant authority)		
7	Complete, sign, submit SBD 1, SBD 3.1, SBD 4, SBD 6.1		

### Phase 4:

#### Submitting and Testing of samples:

Bidders that passed phase 3 of the evaluation criteria will be contacted to submit samples within 10 working days after receipt of official request. The bid will be evaluated using below criteria and failure to comply with all the specifications as listed will render your bid as not to specification and non-responsive and the bid will not be considered for phase 5 evaluation.

1. Samples should be submitted within 10 working days after receipt of official request for submission of samples as per Clause 10 of the Tender data under Section 2.
2. Test result must be in compliance with Tender data as set out under Section 2: Tender data
3. The sample identification card should be attached to the bag of the sample. There should also be a copy of this card be put in the sample bag to ensure that if the outside Sample Identification card gets lost, the sample can still be identified

### Phase 5:

#### Evaluation of Price and Preference Points Claimed:

During this phase, bid proposals that passed the phase 4 will be further evaluated based on the 80/20 preference points system in accordance with the PPPFA Act, where 80 points will be attained in respect of price and 20 points will be awarded to a bidder for attaining the B-BBEE Status Level of Contribution.

The bidder scoring the highest points in phase 5 price and preference (80/20) will be recommended for award.

Attach a copy of valid B-BBEE Status Level Verification Certificate . Tenderers who qualify as Exempted Micro Enterprises (EME) may submit an original Sworn Affidavit signed by the EME representative and attested by a Commissioner of Oaths confirming its annual total revenue of R10 million or less and indicating

B-BBEE Level Contributor. Alternatively, the bidder may submit a valid B-BBEE Certificate for Exempted Micro Enterprises issued by the Companies & Intellectual Property Commission (CIPC) on behalf of the Department of Trade and Industry on 24 April 2018.

In the case of Qualifying Small Enterprises (QSE), if the bidding entity is more than 51% black owned, the bidder may submit an original valid Sworn Affidavit, signed by the QSE representative and attested by a Commissioner of Oaths. (in line with the Justices of the Peace and Commissioners of Oaths Act, 1963). If the QSE is less than 51% black owned, then the bidding entity will be required to provide a copy of valid BBEE Certificate ..

Only B-BBEE Status Level Verification Certificates issued by agencies accredited by SANAS will be accepted. In case of a trust, consortium or joint venture, all bidders must submit a valid consolidated B-BBEE Status Level Verification Certificate issued by an agency accredited by SANAS or copies thereof

**BIDDERS ARE REQUESTED NOT TO MAKE A COPY OF THE DOCUMENT WHICH HAS ALREADY BEEN CERTIFIED FOR TENDERING PURPOSES!!**

### **13. REJECTION OF BID**

Bids not complying with the above-mentioned requirements and specifications will be regarded as incomplete and will not be considered.

### **14. RESULTS OF BIDS**

Results of non-acceptance of bids will be sent to individual unsuccessful bidders. Particulars of accepted bids will be on Department of Water and Sanitation website and National Treasury. The Department reserves the right to award bid to more than one supplier/ vendor.

**BIDDER'S DISCLOSURE**

**1. PURPOSE OF THE FORM**

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

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

**2. Bidder's declaration**

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

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

Full Name	Identity Number	Name of State institution

2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES/NO**

2.2.1 If so, furnish particulars:  
.....  
.....

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

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

2.3.1 If so, furnish particulars:

.....  
.....

**3 DECLARATION**

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

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>2</sup> will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

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

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

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of bidder

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

**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017**

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

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

**1. GENERAL CONDITIONS**

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

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

1.2

- a) The value of this bid is estimated to **exceed/not exceed** R50 000 000 (all applicable taxes included) and therefore the **80/20** preference point system shall be applicable; or
- b) Either the 80/20 or 90/10 preference point system will be applicable to this tender (*delete whichever is not applicable for this tender*).

1.3 Points for this bid shall be awarded for:

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

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

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

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

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

**2. DEFINITIONS**

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

### 3. POINTS AWARDED FOR PRICE

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

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

<b>80/20</b>	<b>or</b>	<b>90/10</b>
$P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$	or	$P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$

Where

- P<sub>s</sub> = Points scored for price of bid under consideration
- P<sub>t</sub> = Price of bid under consideration
- P<sub>min</sub> = Price of lowest acceptable bid

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

4.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)

1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

**5. BID DECLARATION**

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

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

6.1 B-BBEE Status Level of Contributor: . = .....(maximum of 10 or 20 points)  
 (Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.)

**7. SUB-CONTRACTING**

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

*(Tick applicable box)*

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

7.1.1 If yes, indicate:

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

*(Tick applicable box)*

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

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

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



<b>Black people who are military veterans</b>		
<b>OR</b>		
<b>Any EME</b>		
<b>Any QSE</b>		

--

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

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

8.2 VAT registration number:.....

8.3 Company registration number:.....

**8.4 TYPE OF COMPANY/ FIRM**

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

[TICK APPLICABLE BOX]

**8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

.....

.....

.....

.....

**8.6 COMPANY CLASSIFICATION**

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

[TICK APPLICABLE BOX]

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

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –

- (a) disqualify the person from the bidding process;
- (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
- (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
- (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
- (e) forward the matter for criminal prosecution.

WITNESSES

1. ....

2. ....

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

DATE: .....

ADDRESS .....

.....

.....

**DEPARTMENT OF WATER AND SANITATION**

**DWS10-1122 WTE**

**THE SUPPLY AND DELIVERY OF SAND FILTER MATERIAL FOR NKADIMENG DAM SAFETY  
REHABILITATION PROJECT FOR A PERIOD OF THREE (3) MONTHS**

**SECTION 2:            TENDER DATA**

**CONTENTS**

1.        STIPULATIONS

**TENDER DATA**

**Initial next to each clause in this section.**

**Bidders are required to sign at the end of this Section.**

	<b>STIPULATIONS</b>	<b>INITIAL</b>
1.	<p><b>QUARRY /SUPPLIER OF PRODUCT</b></p> <p>In the case where a potential successful bidder is only a supplier but not the actual producer and will procure the products from a producer or another supplier and did not submit a letter from that producer/supplier confirming supply arrangement(s) in this regard by the closing time of this bid, such a letter must be submitted within <b>14 days</b> after the receipt of a "<b>Letter of Notification to Bidder</b>" from this Department. Failure to comply with this requirement within 14 calendar days shall result in the bid being awarded to another bidder.</p>	
2.	<p><b>SERVICE</b></p> <p>The service to be rendered is:</p> <p><b>THE SUPPLY AND DELIVERY OF SAND FILTER MATERIAL FOR NKADIMENG DAM SAFETY REHABILITATION PROJECT FOR A PERIOD OF THREE (3) MONTHS</b></p> <p>To Nkadimeng Dam site.</p>	
3.	<p><b>SITE</b></p> <p>Nkadimeng Dam in the Limpopo Province</p> <p><b>GPS Coordinates:</b></p> <p><b>Site Nkadimeng Dam– Jane Furse</b>  <i>S 24° 38' 17" - E 29° 59' 07"</i></p> <p>From Polokwane take the R37 road to Burgersfort, turn right to the R579 road towards Lebowakgomo. Drive straight until Apel Cross just before Ga-Masemola, turn left on the King Sekhukhune Road and drive for the next 60km until you get to Manganeng Village.</p>	
4.	<p><b>STANDARDS, SPECIFICATIONS AND DEFINITIONS APPLICABLE</b></p> <p>The bid specification is supported by the specifications and standards of SABS 1200DE-1994 SMALL EARTH DAMS in the form of their latest editions.</p> <p>For the purpose of this specification the definitions and abbreviations given in the specification and standards and the following shall apply:</p> <p><b>Quarry Material</b></p> <p>This is material which after processing, if necessary, satisfies the specified requirement for incorporation into the permanent works. For the purpose of this specification, crusher sand, river sand and crusher or natural stone shall be classified as quarry material.</p>	

	<b>STIPULATIONS</b>	<b>INITIAL</b>
5.	<p><b>QUARRY SITES AND WORKS</b></p> <p>Bidders are required to decide for themselves which commercial quarry/ crusher they propose to use.</p> <p>The responsibility for the selection of a suitable quarry / crusher rests with the Bidder. Any selected quarry / crusher may only be used after the samples submitted from that quarry / crusher is tested and approved by the Department.</p> <p>The decision regarding which offer to accept will be made on the conformation to the relevant specifications and in conjunction with the Preferential Procurement Regulations, 2017. Accordingly, no additional or subsequent claim for any difficulties or expenses incurred in the removal and delivery of any material will be entertained at any stage.</p> <p>The Department have the right to inspect the quarry / crusher of all the Bidders to ensure whether sufficient quantities of material is available and whether the plant of the Bidder is in such condition to complete the contract. The inspection may take place before, during and after the award of the contract.</p>	
6.	<p><b>TECHNICAL SUPPORT</b></p> <p>Should any problem be reported to the supplier concerning the services, the following response times are expected:</p> <ul style="list-style-type: none"> <li>▪ Within 24 hours a representative of the supplier should be on site to resolve the problem.</li> <li>▪ Within 24 hours there should be a solution to the problem or if not possible, replacement products should be on site within 48 hours at the supplier's expense.</li> </ul> <p><b>ANY DEFECTED PRODUCT SHOULD BE REPLACED AT THE SUPPLIER'S EXPENSE.</b></p>	
7.	<p><b>SCOPE OF CONTRACT</b></p> <p><b>Bidder</b></p> <p>The Bidder will be required to perform the following service as part of this contract:</p> <ul style="list-style-type: none"> <li>(i) Supply and deliver of Sand Filter Material to site.</li> <li>(ii) Stockpile material in designated location.</li> <li>(iii) All sourcing, transportation and loading costs shall be included in the bid rates.</li> </ul>	
8.	<p><b>QUANTITIES REQUIRED / DELIVERY</b></p> <p><b>The total quantity as per SBD 3.1</b></p> <p>The total quantity of Sand Filter Material to be supplied is indicated in the pricing schedule SBD3.1. Purchase orders will be placed if and when required.</p> <p>The Bidder will not be entitled to claim any form of compensation for any requirement variations in the total quantities or specific quantities whatsoever.</p> <p><b>NOTE: THE DEPARTMENT RESERVES THE RIGHT TO CHANGE (DECREASE) THE QUANTITIES TO BE ORDERED FROM THE SUCCESSFUL BIDDER.</b></p>	

	<b>STIPULATIONS</b>	<b>INITIAL</b>																																				
9.	<p><b>SPECIFICATIONS AND SITE HANDLING</b></p> <p><b>SPECIFICATION</b></p> <p>SABS 1200DE-1994 SMALL EARTH DAMS</p> <p>Clause: 3.2.2 Filter material shall:</p> <ol style="list-style-type: none"> <li>a) Be clean and contain no organic material;</li> <li>b) Contain no soft friable particles;</li> <li>c) Consists of tough, durable, and well-shaped particles; and</li> <li>d) Have the grading as specified in <b>Table 1</b>.</li> </ol> <p>Sands from natural sources (i.e. rivers, sand pits, etc.) that have been suitably selected and washed to remove organic material and clay, etc. may be blended with a manufactured sand (i.e. crusher sand) to achieve a combined sand which conforms to the specifications.</p> <p><b>Grading</b></p> <p><b>GRADING ENVELOPE FOR SAND FILTER MATERIAL</b></p> <table border="1" data-bbox="263 801 794 1205"> <thead> <tr> <th>Sieve Size [mm]</th> <th>Percentage Passing Minimum</th> <th>Percentage Passing Maximum</th> </tr> </thead> <tbody> <tr><td>13.2</td><td>100</td><td>100</td></tr> <tr><td>9.5</td><td>98</td><td>100</td></tr> <tr><td>6.7</td><td>95</td><td>100</td></tr> <tr><td>4.75</td><td>90</td><td>100</td></tr> <tr><td>2.36</td><td>80</td><td>100</td></tr> <tr><td>1.18</td><td>60</td><td>95</td></tr> <tr><td>0.6</td><td>25</td><td><b>70</b></td></tr> <tr><td>0.3</td><td>5</td><td>43</td></tr> <tr><td>0.15</td><td>0</td><td>20</td></tr> <tr><td>0.075</td><td>0</td><td>5</td></tr> <tr><td>FM</td><td>3.47</td><td>1.72</td></tr> </tbody> </table> <p><b>TABLE 1</b></p> <p>The Bidder shall maintain stockpiles in the designated area that:</p> <ol style="list-style-type: none"> <li>I. Provide adequate capacity to ensure no interruption to the construction operations.</li> <li>II. Ensure that there is no inter mixing or contamination by deleterious matter.</li> <li>III. Ensure that there is no segregation</li> </ol>	Sieve Size [mm]	Percentage Passing Minimum	Percentage Passing Maximum	13.2	100	100	9.5	98	100	6.7	95	100	4.75	90	100	2.36	80	100	1.18	60	95	0.6	25	<b>70</b>	0.3	5	43	0.15	0	20	0.075	0	5	FM	3.47	1.72	
Sieve Size [mm]	Percentage Passing Minimum	Percentage Passing Maximum																																				
13.2	100	100																																				
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0.3	5	43																																				
0.15	0	20																																				
0.075	0	5																																				
FM	3.47	1.72																																				
9.1	<p><b>WATER &amp; PRODUCT QUALITY</b></p> <p>The water used for washing the material shall be free from silt or other suspensions that might impair the washing efficiency or detrimentally affect the material properties.</p> <p>The quality of material and methods of procuring and processing materials shall at all times be subject to the approval of the Department who shall be at liberty to order the Bidder to operate from any of the approved sources of supply. A stockpiled material no longer conforming to the specified requirements or able to yield a uniform product shall be re-processed at the expense of the Bidder and to the satisfaction of the Department</p>																																					
9.2	<p><b>GENERAL</b></p> <p>Where materials are blended, the Bidder shall provide means, to the approval of the Department, of such blending. The blending techniques and proportions used from time to time shall take due account of the moisture in the materials. The methods and durations of mixing of the materials shall all be subject to the approval of the Department prior to commencing and during the execution of the work. The Bidder shall perform at his own expense, such test as the Department may approve or subsequently order to</p>																																					

	develop a satisfactory blending technique and such additional routine tests to ensure that the desired uniformity of quality is maintained.	
	<b>STIPULATIONS</b>	<b>INITIAL</b>
<b>10.</b>	<p><b>SAMPLES</b></p> <p>Samples must be submitted within 10 working days after receipt of official request from the Department of Water and Sanitation.</p> <p>The supply of samples of at least the specified mass of product material is a condition of the bid.</p> <p><b>The samples shall be clearly marked, inside AND outside of the bag, with the Bidder's name, bid number, item number and product description.</b></p> <p>and shall be delivered to:  Contract Manager: Construction North  Department of Water and Sanitation  <b>LIMPOPO PROVINCE</b>  <b>NKADIMENG DAM</b></p> <p><b>Nkadimeng dam</b> is located near Pshirwari River, which is 15 KM North West of Jane Furse in the Sekhukhune District of the Limpopo Province.</p> <p>GPS Coordinator: <b>24.6376° S, 29.9892° E</b>  S 24° 38' 17" - E 29° 59' 07"</p> <p>For enquiries Technical: <b>SL Kumalo</b> (Cell: 083 446 9271 / Tel: 015 307 3799 / 3788 / 3721)</p> <p>Samples shall reach the above mentioned address not later than the 10 working days after the receipt of an official request from the Department of Water and Sanitation. Samples shall be packed in sealed canvas or suitable plastic bags in order to avoid the loss of fines in transit. Bags shall be clearly marked showing the bid number, name of Bidder, item number and description of material. An example of the Sample Identification Card is shown in Section 4 of the bid documents.</p> <p><b>It is the responsibility of the bidder to ensure that the identification cards, inside and outside of the bags, are protected against mechanical damage or damage by moisture and that the card stays intact at all times. Sample card in Section 4</b></p> <p>The sample supplied and accepted for each item serve as the standard to which the Bidder's deliveries will be tested and any consignment by the Bidder which is not up to the standard of the sample will not be accepted and the Department may claim compensation for any transport and labour costs which may have been incurred in respect of such consignment.</p> <p>The mass of the samples for <b>filter sand</b> shall at least be <b>1 x 25Kg bags per type of material. Strictly use bags for handling purpose.</b></p> <p><b>Failure to submit the samples properly identified showing the bid number, the Bidder's name and the item number etc., within 10 working days of request, as indicated above will invalidate the bid.</b></p>	
<b>11.</b>	<p><b>ACCEPTANCE CRITERIA FOR DELIVERED MATERIAL</b></p> <p>The delivered material will be accepted and regarded as being similar to the reference sample and in accordance with the grading specification if it fulfils the requirements given in Clause 9.</p>	

	<b>STIPULATIONS</b>	<b>INITIAL</b>
<b>12.</b>	<p><b>TESTING OF QUARRY MATERIAL DURING THE CONTRACT PERIOD</b></p> <p>Testing of quarry material shall be in accordance with the particular requirements for its use as specified in the appropriate specification.</p> <p>The successful Bidder shall conduct all the tests specified in SANS 201/1083 on the quarry material to ensure that the quality of the material will comply with the specified requirements at any given time for the duration of the contract.</p> <p>The costs of all these tests shall be included in the unit price (bid price) given in SBD 3.1.</p>	
	<p>If there is any doubt concerning the quality of the quarry material being quarried at any time, the Bidder shall notify the Department immediately. The results of all the tests conducted by the Bidder shall be submitted to the Department. The Department will, after further testing or inspection if necessary, instruct the Bidder regarding the use of the material in the quarry.</p>	
<b>13.</b>	<p><b>QUANTITIES REQUIRED / DELIVERY RATE</b></p> <p>The total quantity of fine aggregate to be delivered will be determined during the duration of the order.</p> <p>The minimum rate shall be 1000 ton per month. The minimum stockpile shall be 2000 ton. The Bidder will not be entitled to claim any form of compensation for any requirement variations in the total quantities or specific quantities whatsoever. Quantities of aggregate are masses in metric ton of dry material required and for which measurement par payment will be made. Dry material is defined as material having 0% moisture content.</p> <p>Failure to adhere to the minimum delivery rate as above will result in implementation of measures prescribed in Clause 20.</p>	
<b>14.</b>	<p><b>PROGRAMME OF WORKS</b></p> <p>It is required from the successful bidder to start with the work <b>(2) two days</b> after the official purchase order is issued.</p> <p>The Bidder shall supply the Department, one week prior to the commencement of the first delivery with an adequate sample of the material. This requirement is additional to the supply of samples specified in the Clause 10 above and will be communicated to the bidder by the site.</p>	
<b>15.</b>	<p><b>ROAD CONDITIONS AND DISTANCE</b></p> <p>Bidders are advised to acquaint themselves with roads, road conditions, distances, etc. on and to the site, before bidding.</p>	
<b>16.</b>	<p><b>COSTS</b></p> <p>Bidders shall provide in their bid for all labour, plant, material, implements and vehicles necessary for the execution of the contract and all operating and maintenance costs in accordance with the bid documents.</p>	



	<b>STIPULATIONS</b>	<b>INITIAL</b>
<b>17.</b>	<p><b>DELIVERY</b></p> <p>Delivery to site is required <b>2 days (48 hours)</b> after receipt of an official order.</p> <p>The delivery address is:</p> <p><b>NKADIMENG DAM SITE IN THE LIMPOPO PROVINCE</b></p> <p>Deliveries may be made during the following working hours <b>7h30 to 15h00</b> from Monday to Thursday but <b>not</b> on the following days or periods:</p> <ul style="list-style-type: none"> <li>(i) Fridays 14h00 to Mondays 7h00</li> <li>(ii) All public holidays</li> <li>(iii) The period 11 December to 3 January</li> <li>(iv) The last Thursday and Friday of the month</li> </ul> <p>The Bidder shall nominate a contract person with whom the Department will arrange and schedule deliveries. Purchase orders for material will be placed 48 hours before delivery is required.</p> <p>A SANS approved certificate OR test results of compliance shall be submitted by the Bidder.</p> <p>DWS Construction will perform testing of all material delivered to site to ensure that all material do comply with the relevant specification.</p> <p>DWS will decline material that does not comply. The declined consignments must be removed from site after being audited at the Bidders own cost.</p>	
<b>18.</b>	<p><b>DELIVERY PERIOD</b></p> <p>A firm delivery period is required. Adherence to bid delivery period is of utmost importance.</p> <p>Note that the penalty for late delivery prescribed in clause 20 will be imposed.</p>	
<b>19.</b>	<p><b>BID PRICE AND DELIVERY PERIODS</b></p> <p>All inclusive bid prices are required, meaning VAT, delivery and any other cost mentioned in the specification for the Bidders account must be included in the unit price.</p> <p>Firm bid prices and delivery periods are preferred.</p>	
<b>20.</b>	<p><b>PENALTIES AND DELAY DAMAGES</b></p> <p>The penalties referred to in clause 22 of the General Conditions of Contract July 2010 state 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 price as a penalty, a sum 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 July 2010 clause 23.</p>	

	<b>STIPULATIONS</b>	<b>INITIAL</b>
<b>21.</b>	<p><b>PAYMENT</b></p> <p>Payment will be made metric ton of dry sand/aggregate. The Department reserves the right to check the quantities loaded at any time.</p> <p>Payment will be made monthly on receipt of specified tax invoices.</p> <p>Payment will not be made for consignment unless supported by delivery notes duly signed by the official checking the delivery and weighbridge certificates.</p> <p>Escalation or price increases will only be paid if escalation / price increase formulas have been submitted by the Bidder in the bid document.</p> <p>Payment will be done within 30 days of receipt and approval of original invoice by depositing the payment directly into the bank account of the successful bidder. No cash or cheque payment will be done.</p> <p>Payment for standing time exceeding two hours will only be made if such standing time is a result of the action of the Department.</p>	
<b>22.</b>	<p><b>SAFETY AND ENVIRONMENTAL</b></p> <p>Bidders are required to adhere to the Departments Safety and Environmental policies to be issued during the briefing session.</p>	
<b>23.</b>	<p><b><u>BIDDERS MUST INITIAL ALL PAGES &amp;</u></b>  <b><u>BELOW DECLARATION MUST BE SIGNED</u></b></p>	

Therewith I, \_\_\_\_\_ (Bidder's Name) declare that I have read, completed and understood the above specifications.

\_\_\_\_\_  
**BIDDER'S SIGNATURE**

**DEPARTMENT OF WATER AND SANITATION**

**DWS10-1122 WTE**

**THE SUPPLY AND DELIVERY OF SAND FILTER MATERIAL FOR NKADIMENG DAM SAFETY REHABILITATION PROJECT FOR A PERIOD OF THREE (3) MONTHS**

**SECTION 3: SBD 3.1 – PRICING SCHEDULE**

**CONTENTS**

1. PREAMBLE TO THE SBD 3.1 – PRICING SCHEDULE
2. SBD 3.1 – PRICING SCHEDULE

## **PREAMBLE TO THE SBD 3.1 – PRICING SCHEDULE**

### **1. GENERAL**

The SBD 3.1 forms part of the Contract Documents and must be read and priced in conjunction with all the other documents which include the Conditions of Contract and all other Specifications in the bid document.

### **2. QUANTITIES REFLECTED IN THE PRICING SCHEDULE**

The quantities given in the SBD 3.1 can be subject to change. **The Department reserves the right to less quantities per item or one item or none of the items in the pricing schedule.**

The validity of the contract will in no way be affected by differences between the quantities in the SBD 3.1 and the quantities finally certified for payment.

### **3. PRICING OF THE SCHEDULE**

The rates to be filled in the SBD3.1 should include all costs. The amounts quoted in the SBD 3.1 shall be in Rand and shall include VAT.

### **4. CORRECTION OF ENTRIES**

Incorrect entries shall not be erased or obliterated with correction fluid, use of correction fluid will invalidate your bid, but must be crossed out neatly. The correct figures must be entered above or adjacent to the deleted entry, and the alteration must be initialled by the Bidder, failure to initial where the correction was done will invalidate your bid.

### **5. AWARD OF ITEMS IN PRICING SCHEDULE**

Take note that the items in the pricing schedule may be awarded to different suppliers. Awards may be done per item or a combination of items. The discretion thereof will be with Departments to suit the needs of the Department.

**PRICING SCHEDULE  
(Firm Prices)**

**DWS10-1122 WTE**

**THE SUPPLY AND DELIVERY OF SAND FILTER MATERIAL FOR NKADIMENG DAM SAFETY REHABILITATION PROJECT FOR A PERIOD OF THREE (3) MONTHS**

**THIS PRICING SCHEDULE MUST BE COMPLETED IN FULL – FAILURE TO COMPLY WILL INVALIDATE YOUR BID**

CLOSING TIME:11: 00 ON: .....	BID NO.: DWS10-1122 WTE
NAME OF BIDDER: .....	

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

ITEM	DESCRIPTION	QUANTITIES (t)	UNIT PRICE	BID PRICE IN RSA CURRENCY
1.	Sand Filter Material (rate per cubic meter inclusive of supplying, handling and transport costs)	9000	R .....per / ton	R .....
<b>SUB-TOTAL (EXCL. VAT)</b>				R .....
<b>15 % VAT</b>				R .....
<b>TOTAL (INCL. +15 % VAT)</b>				R .....

- Origin of material: \_\_\_\_\_
- Distance between quarry/source and site \_\_\_\_\_
- Delivery basis.  
(See note hereunder) **To Site  
NKADIMENG DAM**
- **Period required for delivery after receipt of order:** \_\_\_\_\_
- Delivery period: **\*FIRM / NOT FIRM**
- Is the price firm? **\*FIRM / NOT FIRM**
- Are you registered in terms of section 23(1) or 23(3) of the value Added Tax Act, 1991 (Act no 89 of 1991?) **\*YES / NO**
- If so, state your VAT registration number. \_\_\_\_\_
- Is the offer strictly to specification? **\*YES / NO**
- If not to specification, state deviation(s) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any enquiries regarding bidding procedures may be directed to the –

Department Water and Sanitation  
Supply Chain Management Office  
Private Bag X313, Pretoria, 0001.  
Tel: (012) 336 3182/7066

**Or**

For Technical

**Mr. S.L KUMALO**

Tel: 083 446 9271 during office hour or

Site information:

Pricing Schedule: Purchases (Firm Prices)  
(SBD 3.1)

November 2011

**DEPARTMENT OF WATER AND SANITATION**

**DWS10-1122 WTE**

**THE SUPPLY AND DELIVERY OF SAND FILTER MATERIAL FOR NKADIMENG DAM SAFETY REHABILITATION PROJECT FOR A PERIOD OF THREE (3) MONTHS**

**SECTION 4: SAMPLE IDENTIFICATION CARD**

**CONTENTS**

SAMPLE IDENTIFICATION CARD

## **SAMPLE IDENTIFICATION CARD**

This Sample Identification Card should accompany the sample submit to the relevant office as indicated in Paragraph 8 of the Specifications.

The Sample Identification Card should be attached to the bag of the sample. There should also be a copy of this card be put in the sample bag to insure that if the outside Sample Identification Card gets lost, the sample can still be identified.

Failure to adhere to this will invalidate the bid.

### **SAMPLE IDENTIFICATION CARD**

<b>NAME OF BIDDER:</b>
<b>CONTACT PERSON:</b>
<b>CONTACT NUMBER:</b>
<b>BID NUMBER:</b>
<b>ITEM NUMBER:</b>
<b>DESCRIPTION / NAME OF PRODUCT:</b>
<b>TYPE OF MATERIAL / PRODUCT:</b>
<b>SIZE OF SAMPLE (KG):</b>
<b>SOURCE OF MATERIAL:</b>
<b>BIDDER'S SAMPLE NUMBER:</b>

### **SAMPLE IDENTIFICATION CARD**

<b>NAME OF BIDDER:</b>
<b>CONTACT PERSON:</b>
<b>CONTACT NUMBER:</b>
<b>BID NUMBER:</b>
<b>ITEM NUMBER:</b>
<b>DESCRIPTION / NAME OF PRODUCT:</b>
<b>TYPE OF MATERIAL / PRODUCT:</b>
<b>SIZE OF SAMPLE (KG):</b>



# **THE NATIONAL TREASURY**

**Republic of South Africa**



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

**July 2010**

**GOVERNMENT PROCUREMENT**  
**GENERAL CONDITIONS OF CONTRACT**  
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**NOTES**

The purpose of this document is to:

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

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

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

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## General Conditions of Contract

### 1. Definitions

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

RSA.

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

obligations of the supplier covered under the contract.

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

## **2. Application**

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

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

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

## **3. General**

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

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

## **4. Standards**

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

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

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

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

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

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

## **6. Patent rights**

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

**7. Performance security**

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

**8. Inspections, tests and analyses**

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

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

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

**9. Packing**

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

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

**10. Delivery and documents**

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

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

**11. Insurance**

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

**12. Transportation**

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

**13. Incidental services**

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

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



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

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

#### **14. Spare parts**

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

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

#### **15. Warranty**

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

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

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

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

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

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

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

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

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

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

## **22. Penalties**

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

## **23. Termination for default**

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

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

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

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

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

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

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

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

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

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

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

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

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

may be due to him

**25. Force Majeure**

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

**26. Termination for insolvency**

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

**27. Settlement of Disputes**

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

**28. Limitation of liability**

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

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

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