



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

DUE AT 11:00 ON

CLOSING DATE: 08 APRIL 2025

DWS25-0125 WTE

**HIRE, SUPPLY, DELIVER AND SERVICE OF FLUSHABLE CHEMICAL TOILETS
TO MZIMVUBU WATER PROJECT FOR A PERIOD OF 48 MONTHS FOR
CONSTRUCTION EAST NEAR MACLEAR IN THE EASTERN CAPE PROVINCE**

SUBMIT COMPLETED BID DOCUMENTS TO:

TO BE DEPOSITED IN:

THE BID BOX AT
DEPARTMENT OF WATER AND SANITATION
2 HARGREAVES AVENUE
KING WILLIAMS TOWN
5600
EASTERN CAPE PROVINCE

Briefing Session: Non-compulsory

Date: 11 March 2025

Time: 12:00pm

Venue: Microsoft teams meeting. Join by entering meeting ID and Passcode

Meeting ID: 316 113 282 432

Passcode: Rp22HD2x

BIDDER: (Company address or stamp)

COMPILED BY: INFRASTRUCTURE MANAGEMENT BRANCH

DEPARTMENT OF WATER AND SANITATION

DWS25-0125 WTE

**HIRE, SUPPLY, DELIVER AND SERVICE OF FLUSHABLE CHEMICAL TOILETS TO
MZIMVUBU WATER PROJECT FOR A PERIOD OF 48 MONTHS FOR CONSTRUCTION
EAST NEAR MACLEAR IN THE EASTERN CAPE PROVINCE**

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PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)					
BID NUMBER:	DWS25-0125 WTE	CLOSING DATE:	08 APRIL 2025	CLOSING TIME:	11:00
DESCRIPTION	HIRE, SUPPLY, DELIVER AND SERVICE OF FLUSHABLE CHEMICAL TOILETS TO MZIMVUBU WATER PROJECT FOR A PERIOD OF 48 MONTHS FOR CONSTRUCTION EAST NEAR MACLEAR IN THE EASTERN CAPE PROVINCE				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
2 HARGREAVES AVENUE					
KING WILLIAMS TOWN					
5600					
EASTERN CAPE					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Bid Office		CONTACT PERSON	Mr. Z. Cele	
TELEPHONE NUMBER	012 336 6562 / 7780 / 7596 / 8151		TELEPHONE NUMBER		
FACSIMILE NUMBER	N/A		FACSIMILE NUMBER	N/A	
E-MAIL ADDRESS	bidenquirieswte@dws.gov.za		E-MAIL ADDRESS	CeleZ2@dws.gov.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELL PHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN-BASED SUPPLIER OF THE GOODS /SERVICES OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]
QUESTIONNAIRE TO 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.					

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, 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 PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
- 2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

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

SIGNATURE OF BIDDER:

.....

CAPACITY UNDER WHICH THIS BID IS SIGNED:

.....

(Proof of authority must be submitted e.g. company resolution)

DATE:

.....

NB: FAILURE TO PROVIDE ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID

DEPARTMENT OF WATER AND SANITATION

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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, 2022 (SBD 6.1),
Annexure 1 (Percentage Ownership Affidavit), **Annexure 2** (Location of Enterprise Affidavit), and
Form 1 (Performance Security)
4. National Treasury General Conditions of Contract, 2010

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INSTRUCTIONS TO BIDDERS

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2. Queries with respect to this bid
3. Completion of Bids
4. Submission of Bids
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6. General Conditions of Contract (National Treasury GCC2010)
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8. Bids to comply with documents
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10. The Department's right to decline any bid
11. Department is not liable for bidder's expenses
12. Conditional award clause
13. The department reserve a right to select runners up
14. Payments made under this contract
15. Eligibility Criteria
16. Evaluation Criteria
17. Rejection of bids
18. Results of bids

INSTRUCTIONS TO BIDDERS

1. ISSUING OF DOCUMENTS

- (a) A complete set of bid documents is issued to a list of prospective Bidders, sourced from National Treasury's Central Supplier Database.
- (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.

2. QUERIES WITH RESPECT TO THIS BID

Queries of a specific technical nature should be directed to Mr. Z. Cele at CeleZ2@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

4.1 The Bid Document shall be completed, signed and submitted as follows:

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

"HIRE, SUPPLY, DELIVER AND SERVICE OF FLUSHABLE CHEMICAL TOILETS TO MZIMVUBU WATER PROJECT FOR A PERIOD OF 48 MONTHS FOR CONSTRUCTION EAST NEAR MACLEAR IN THE EASTERN CAPE PROVINCE"

and the name of the Bidder shall be clearly shown.

- b) Bids sealed and endorsed as above, may be deposited in the bid box at the Department of Water and Sanitation 2 Hargreaves Avenue King Williams Town, Eastern Cape Province 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 a 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 THE CONTRACT

- 6.1 The General Conditions of Contract (National Treasury, 2010), as attached shall be regarded as an integral part of the contract documents.
- 6.2 Notwithstanding the rest of the clauses in GCC stated in 6.1 above, the highlighted conditions that the bidder must take into consideration when submitting their bid are as follows:
 - 6.2.1 **[Performance Security]** 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 7.1.
 - 6.2.2 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 obligation under the contract.
 - 6.2.3 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 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
 - 6.2.4 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 the SCC below.
 - 6.2.5 **[Contract amendments]** No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.
 - 6.2.6 **[Assignment]** 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.
 - 6.2.7 **[Delays in the supplier's performance]** Delivery of goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed in SCC, except if agreed in writing with the purchaser.
 - 6.2.8 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.
 - 6.2.9 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.

- 6.2.10 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.
- 6.2.11 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.
- 6.2.12 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without cancelling 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.

7. SPECIAL CONDITIONS OF THE CONTRACT (SCC)

- 7.1 The value of the Performance Security shall be 10% of the Contract Sum.
- 7.2 The supplier shall make delivery of the material within 14 days of the purchaser's written request.
- 7.3 The daily penalty to be applied for delayed delivery of goods or performance shall be 0.08% of the Contract Sum excluding VAT round up to the nearest R10 for each day of the delay until actual delivery or performance to a maximum of 5% of the Contract Sum. Should the penalties reach this cap, the Employer reserves the right to terminate the contract.

8. BIDDERS TO COMPLY WITH DOCUMENTS

- 8.1 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.

9. TELEGRAPHIC BIDS

- 9.1 No bid forwarded by telegram, telex, or facsimile will be considered.

10. THE DEPARTMENTS RESERVE A RIGHT TO DECLINE ANY BID

- 10.1 The Department does not bind itself to accept the lowest or any bid.
- 10.2 The Department shall also conduct a market analysis to ensure prices from bidders are not lower than market related prices. The department shall therefore reserve the right not to appoint bidders who submit bid prices below the market prices.

11. THE DEPARTMENT RESERVE A RIGHT TO SELECT RUNNERS UP (RESERVE BIDDER CLAUSE)

- 11.1 This clause allows the Department to appoint the runners-up bidder as the successful bidder if the initial bidder fails to:**

- (a) Accept the awarding of the contract within 14 days stipulated time;

This serves the right for the Department to appoint second ranked bidder if initial bidder fails to accept contract within 14 days of award.

- (b) Fulfil the contractual obligations

As stipulated within this bidding document.

- (c) Meet the Department's/Project requirements.

Failure to meet the following will result in the Department to appoint second ranked bidder:

- (i) Services not meeting specified requirements.
- (ii) Failure to deliver services within Delivery Scheduled Period.
- (iii) Excuses from bidder from liability of delays caused by unforeseen events, unless proven legitimacy of delay within working 3 days of notification.

11.2 If the selected bidder fails to perform or deliver the goods required by the department, the department reserves the right to select the second runner up, followed by the third runner up.

11.3 The department reserves the right to only re-advertise the tender if all the top three (3) recommended bidders fail to deliver the good or perform poorly, to an extent that termination is evoked

12. CONDITIONAL AWARD CLAUSE

12.1 The Department reserves the right to award the contract to the runner-up bidder subject to:

- (a) Successful negotiation of terms and conditions of contract;
- (b) Fulfilment of specified conditions.

13. THE DEPARTMENT IS NOT LIABLE FOR THE BIDDER'S EXPENSES

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

14. PAYMENTS UNDER THE CONTRACT

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

15. ELIGIBILITY CRITERIA

15.1 The offers will only be accepted if:

- (a) The bidder is registered on the Central Supplier Database (CSD) for the South African government (see <https://secure.csd.gov.za/>) unless it is a foreign supplier with no local registered entity;
- (b) the Tenderer is in good standing with SARS according to the Central Supplier Database;
- (c) the Tenderer submits a letter of intent from an approved insurer undertaking to provide the Performance Security to the format included in **Form 1** of this procurement document;
- (d) the Tenderer or any of its directors/shareholders is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector;
- (e) the Tenderer has not:
 - (i) abused the Employer's Supply Chain Management System; or
 - (ii) failed to perform on any previous contract and has been given a written notice to this effect;

- (f) the Tenderer has completed the Compulsory Declaration and there are no conflicts of interest which may impact on the Tenderer's ability to perform the contract in the best interests of the employer or potentially compromise the tender process;
- (g) the Tenderer is registered and in good standing with the compensation fund or with a licensed compensation insurer;

16. EVALUATION CRITERIA

The evaluation of bids will be conducted in five (6) phases as follows:

- **Phase 1: Mandatory Requirements**
- **Phase 2: Financial Capability**
- **Phase 3: Technical Evaluation and Specification Compliance**
- **Phase 4: Administrative Compliance**
- **Phase 5: Preference Points system**

Phase 1:

Mandatory Requirements

Failure to submit any of the documents listed below will render your bid non-responsive and will be disqualified.

Yes - list the relevant documents required on the table below

Table 1: Mandatory Requirements.

No	Criteria	Yes	No
1.	Valid South African Waste Information Registration Certificate in terms of National Waste Information Regulations, 2012. Should the bidder own a licensed waste treatment facility, the bidder must attach a valid Waste Management License or Permit in terms of National Environmental Management Act from the waste treatment facility. OR Should the bidder outsource a licensed waste treatment facility, the bidder must attach a Confirmation letter (signed by the facility owner) or Agreement letter (signed by both parties) from the licensed waste treatment facility.		

Phase 2:

Financial Capability

This criterion incorporates two (2) sub-criteria to evaluate the financial capability of the supplier, namely:

1. Best annual turnover; and
2. Available capital

The criteria will be evaluated on submitted financial statements. Refer to the below definition financial statements.

Financial Statements: financial statements which are prepared in accordance with Generally Accepted Accounting Practice (GAAP) or the International Financial Reporting Standard (IFRS), and certified by a person who is by law required to certify those financial statements, if any.

Failure to submit any of the documents listed below will render your bid non-responsive and will be disqualified.

Table 2A: Best annual turnover.

No	Criteria	Yes	No
1	The best annual turnover between the two (2) years immediately preceding the bid: Submit financial statement as proof.		
1.1	Has a best annual turnover of R 640 000.00		

Table 2B: Available Capital.

No	Criteria	Yes	No
2.	<p>Available capital immediately preceding the tender application.</p> <p>It shall be determined as follows:</p> <p>2.1 Submit financial statement as proof.</p> <p>This is the amount calculated by adding any financial sponsorships to the sum of the net asset value of a supplier as indicated in the supplier's financial statements, and financial sponsorship:</p> <ul style="list-style-type: none"> (a) Where the sponsor is a registered supplier on CSD and owns 50% or more of the bidder supplier, may constitute up to 100% of the total amount of required available capital; (b) Where the sponsor is not a registered supplier on CSD and owns 25% or more of the bidder supplier, may not exceed 75% of the total amount of the required available capital; and (c) Where the supplier is registered on CSD and the sponsor owns less than 25%, may not exceed 50% of the total amount of the required available capital. <p style="text-align: center;">AND / OR</p> <p>2.2. Proof of financial agreement / Guarantee with an accredited South African Financial Service Provider.</p>		
2.1	Minimum required available capital = R 380 000		

Phase 3:

Technical Evaluation and Specification Compliance

- Indicate by marking the relevant column, if you mark on both columns, it will be considered as non-compliance. A bidder who fails to comply with the specification requirements will be disqualified and not considered for further evaluation.

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Table 3: Compliance check.

Item Number	Quantity	Description		
			Comply	Not Comply
1.	20 units	Hire of 20 flushable chemical toilets for a period of 48 months		
2.	20 units x 4 weeks x 48 months	Servicing of 20 flushable chemical toilets once a week for a period of 48 months		
3.	20 units	Delivery of flushable chemical toilets to site		
4.	20 units	Collection of flushable chemical toilets from site		

Phase 4:

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 must submit CSD report. Provide MAAA number on SBD1		
2.	Tax compliant with SARS (to be verified through CSD and SARS). Attach Tax Compliance status PIN page		
3.	Active registration with Company Intellectual Property Commission (to be verified through CSD and CIPC). Attach a copy of CIPC / CIPRO certificate.		
4.	A valid copy of B-BBEE Status Level Verification Certificate or a valid original sworn affidavit (failure to submit, the Bidder will forfeit the relevant points allocated for B-BBEE under specific goals)		
5.	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		
6.	Initial and sign Section 2 Tender data (Specification)		
7.	Letter of appointment of duly authorized person to sign bid. Proof of such authority must be submitted with the bid. If by an individual, must be signed by that individual or by someone on his behalf duly authorised thereto and proof of such authority must be produced. If the bid is by a Company, it must be signed by a person duly authorised thereto by a Resolution of a Board of Directors a copy of which Resolution, duly certified by the Chairman of the Company is to be submitted with the bid.		
8.	Complete, sign, and submit SBD 1, SBD 3.2 SBD 4, SBD 6.1, & Form 1		

Phase 5:

Preference Points system

The bid will be awarded in terms of Regulation 4: Preferential Procurement Regulations, 2022 pertaining to the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000).

Bid proposals will be evaluated based on the **80/20** preference points where a maximum of 80 points will be awarded in respect of price and a maximum of 20 points will be awarded for goals.

Points claimed will be according to a bidder's specific goals claimed as indicated in Table 4 below.

Table 1: Specific goals for the tender and points claimed:

The specific goals allocated points in terms of this tender	Number of maximum points allocated (80/20 system)	Bidder's points claimed for specific goals (To be completed by Bidder)
Women	Up to 5	
People with disability	Up to 5	
Youth (35 and below)	Up to 5	
Location of enterprise Eastern Cape Province	Up to 2	
B-BBEE status level contribution from levels 1 to 2 which are QSE or EME	Up to 3	
Total points for SPECIFIC GOALS	Up to 20	

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.

“Ownership” means the percentage of ownership and control, exercised by individuals within an enterprise.

"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, caliper 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).

"Youth" means, in respect a person younger than 35 years of age.

"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 claim and be allocated the points.

Women, disability, and youth will be measured by calculating the pro-rata percentage of ownership of the bidding company which meets the 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/disabled/youth. Therefore, this bidder will obtain 60% of the points allowable for this goal.

Table 2: Documents required for verification of Bidder's claimed points

Specific Goal	Requires Proof Documents
Ownership by Women	Completed Percentage Ownership Affidavit (Annexure 1)
Ownership by people with disabilities	
Ownership by Youth	
Location of enterprise – Eastern Cape	Completed Location of Enterprise Affidavit (Annexure 2) and proof of such premises
B-BBEE status level1 or level 2 contributor who are Exempted Mico Enterprise or Qualifying Small Enterprise	B-BBEE verification certificate issued by a verification agency accredited by South African National Accreditation Agency (SANAS0 or in the case of an EME or a QSE, if permitted in terms of the relevant cade, a duly completed sworn affidavit on the relevant and appropriate form.

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

17. REJECTION OF BID

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

18. RESULTS OF BIDS

Results of non-acceptance of bids will be sent to individual unsuccessful bidders in due course. Particulars of accepted bids are published weekly in the Government Tender Bulletin.



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 interest¹ 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

¹ 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.



2.2 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

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 consortium² 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.

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

SBD4



- 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



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

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

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

1. GENERAL CONDITIONS

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

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

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

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

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

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

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

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
SPECIFIC GOALS	20
Total points for Price and SPECIFIC GOALS	100

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



- 1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

2. DEFINITIONS

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

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

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

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

80/20	or	90/10	
$Ps = 80 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right)$	or	$Ps = 90 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right)$	

Where

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



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

3.2.1. POINTS AWARDED FOR PRICE

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

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

Where

- P_s = Points scored for price of tender under consideration
 P_t = Price of tender under consideration
 P_{max} = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

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

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.



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

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

Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Ownership by Women	5	
Ownership by people with disabilities	5	
Ownership by Youth	5	
Location of enterprise: Eastern Cape	2	
B-BBEE status level 1 or level 2 contributor who is an EME or QSE	3	
Total points for SPECIFIC GOALS	20	

DECLARATION WITH REGARD TO COMPANY/FIRM

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

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

☐ Partnership/Joint Venture / Consortium

☐ One-person business/sole propriety

☐ Close corporation

☐ Public Company

☐ Personal Liability Company

☐ (Pty) Limited

☐ Non-Profit Company

☐ State Owned Company

[TICK APPLICABLE BOX]

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

SBD 6.1



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

.....
SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME:

DATE:

ADDRESS:

.....

.....

PREFERENCING SCHEDULE IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

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

1 Preference

Preferences shall be granted in respect of the following:

1.1 Ownership by women, people with disabilities and youth

The percentage shareholding of an enterprise as at the closing time for submissions of natural persons who are women, people with disabilities or youth as evidenced by:

- a) voting rights that are not subject to any limitation; and
- b) economic interest.

where

people with disabilities are people who have a long-term or recurring physical or, mental, intellectual or sensory impairment which, in interaction with various barriers, may substantially limit their prospects of entry into, or advancement in, employment

youth are people aged between 14 and 35

1.2 Local enterprise

An enterprise which operates from a building together with its land and outbuildings located within the boundaries of the., or Province as at the closing time for submissions

1.2 B-BBEE status level contributors from level 1 or level 2 who are Exempted Micro Enterprises or Qualifying Small Enterprises

The status of an enterprise is measured in accordance with the provisions of **an applicable code of good practice** issued in terms of Section 9(1) of the B-BBEE Act of 2003 at the closing time for submissions.

Note: The Construction Sector Code applies to the B-BBEE compliance measurement of all entities that fall within the Construction Sector i.e. all enterprises that derive more than 50% of their annual Revenue from Construction Related Activities.

2 Conditions associated with the granting of preferences

Tenderers who claim a preference shall provide in support of their claim the following in relation to their claim, failing which their claims for preferences will be rejected:

Preference applied for	Verification document
Ownership by women	Completed Percentage Ownership Affidavit (Annexure 1)
Ownership by people with disabilities	
Ownership by youth	
Location of enterprise	Completed Location of enterprise affidavit (Annexure 2) and proof of ownership of premises or a valid rental agreement with the owner of such premises

*Continuing

*Continues

B-BBEE status level of contributor	<p>B-BBEE Verification Certificates issued by a verification agency accredited by the South African National Accreditation System (SANAS) (see www.sanas.co.za/Pages/index.aspx) or, in the case of an Exempted Micro Enterprise or a Qualifying Small Enterprise, if permitted in terms of the relevant code, a duly completed sworn affidavit on the relevant and appropriate form obtained from one the following websites:</p> <ul style="list-style-type: none"> ○ www.thedtic.gov.za/wp-content/uploads/BEE_Affidavit-QSE-Gen.pdf ○ www.thedtic.gov.za/wp-content/uploads/BEE_Affidavit-EME-Gen.pdf ○ www.abp.org.za/wp-content/uploads/2018/03/Final-CSC-EME-Affidavit-March-2018-2.pdf
------------------------------------	---

3 Preferences points offered and claimed

The preference points offered by the Employer in accordance with the provisions of the Preferential Procurement Policy Framework Act of 2022 and claimed by the tenderer are as follows:

Preference claimed		Number of preference points allocation		Preference claimed (tick relevant block)
		90/10 preference points system	80/20 preference points system	
Ownership	by women	Up to 2	Up to 5	
	by people with disabilities	Up to 2	Up to 5	
	by youth	Up to 2	Up to 5	
Location of enterprise	<i>[insert provinces where project is located]</i>	1	2	
B-BBEE status	Level 1 or level 2 contributors who are Exempted Micro Enterprises or Qualifying Small Enterprises	3	3	

where points claimed for ownership are calculated separately for each type of ownership in terms of the following formula:

90 / 10 preference points system: $NO = 2 \times PS / 100$

80 / 20 preference points system: $NO = 5 \times PS / 100$

where

NO = number of points awarded to tenderer claiming a preference for ownership by women, people with disabilities or youth

PS = percentage shareholding by women, people with disabilities or youth as declared in the Percentage Ownership Affidavit

4 Declaration

The undersigned, who warrants that he/she is duly authorised to do so on behalf of the tenderer, confirms that he/she understands the conditions under which such preferences are granted and confirms that the tenderer satisfies the conditions pertaining to the granting of tender preferences which are claimed.

Signature:.....

Name:.....

Duly authorised to sign on behalf of:.....

Telephone: Date:

Name of witness: Signature of witness:.....

Note: Failure to complete the declaration will lead to the rejection of a claim for a preference.

ANNEXURE 1: Percentage Ownership Affidavit

I, the undersigned,

full name and surname

identity number

hereby declare under oath that

1) I am a member / director / owner of the enterprise:

name :

| trading name, if applicable | |

registration number:

physical address:

in which the following natural persons who are women, people with disabilities or youth at the time of the tender submission have

a) voting rights that are not subject to any limitation; and

b) economic interest.

as indicated below

[illegible]

Where:

people with disabilities are people who have a long-term or recurring physical or, mental, intellectual or sensory impairment which, in interaction with various barriers, may substantially limit their prospects of entry into, or advancement in, employment

Note: The Code of Good Practice on Employment of Persons with Disabilities (2015) considers "substantially limit" as "*if in its nature, duration or effects it substantially limits the person's ability to perform the essential functions of the job for which they are being considered*" and points out that "*some impairments*" are so easily controlled, corrected or lessened that they have no limiting effects.

youth are people aged between 14 and 35

- 2) the contents of this statement are to the best of my knowledge a true reflection of the facts;
- 3) I know and understand the contents of the affidavit and I have no objection to take the prescribed oath binding on my conscience and on the Owners of the Enterprise which I represent in this matter.

Deponent signature:

Date:

Commissioner of oaths
Signature and stamp

ANNEXURE 2: Location of enterprise affidavit

I, the undersigned, full name and surname
Identity number

hereby declare under oath that

- 1) I am a member / director / owner of the enterprise:

name :

trading name, if applicable

registration number:

physical address:

.....
which is an enterprise which operates from a building together with its land and outbuildings located within the boundaries of the (*name*) Province as at the closing time for submissions

- 2) the contents of this statement are to the best of my knowledge a true reflection of the facts;
- 3) I know and understand the contents of the affidavit and I have no objection to take the prescribed oath binding on my conscience and on the Owners of the Enterprise which I represent in this matter.

Attach proof of ownership of premises or a valid rental agreement with the owner of such premises

Deponent signature:

Date:

Commissioner of oaths
Signature and stamp

FORM 1
(PERFORMANCE SECURITY)



PRO FORMA PERFORMANCE SECURITY

Tender Reference Number:

Derived from the "General Conditions of Contract for Construction Works, Third Edition, 2015"

PRO FORMA

PERFORMANCE SECURITY

GUARANTOR DETAILS AND DEFINITIONS

"Guarantor" means:

Physical address:

"Employer" means:

"Contractor" means:

"Employer's Agent" means:

"Works" means:

"Site" means:

"Contract" means: The Agreement made in terms of the Form of Offer and Acceptance and such amendments or additions to the Contract as may be agreed in writing between the parties.

"Contract Sum" means: The accepted amount inclusive of tax of R

Amount in words:

"Guaranteed Sum" means: The maximum aggregate amount of R

Amount in words:

Type of Performance Guarantee: (Insert Variable or Fixed)

"Expiry Date" means: Give date) or any other later date set by the

Contractor and/or Employer provided such instruction is received prior to the Expiry Date as indicated here.

CONTRACT DETAILS

The Purchaser issues: Interim Payment Certificate, Final Payment Certificate and the Certificates of Completion of the works as defined in the Contract.

FORM 1

(PERFORMANCE SECURITY)



1. VARIABLE PERFORMANCE GUARANTEE

1.1 Where a Variable Performance Guarantee has been selected, the Guarantor's liability shall be limited during the following period to diminishing amounts of the Guaranteed Sum as follows:

1.1.1 From and including the date of signing the Performance Guarantee up to and including the date of the interim payment certificate certifying, for the first time, more than 50% of the Contract Sum:

R.....(Amount in words)

R..... (Amount in numbers)

1.2 The Employer's Agent and/or the Employer shall advise the Guarantor in writing of the date on which the Interim Payment Certificate certifying, for the first time, more than 50% of the Contract Sum, has been issued and the date on which the Certificate of Final Completion of the Works has been issued.

2. FIXED PERFORMANCE GUARANTEE

2.1 Where a Fixed Performance Guarantee has been selected, the Guarantor's liability shall be limited to the amount of the Guaranteed Sum.

2.2 The Guarantor's period of liability shall be from and including the date on which the Performance Guarantee was signed, up to and including the Expiry Date, or the date of issue by the Employer's Agent of the Certificate of Completion of the Works, or the date of payment in full of the Guaranteed Sum, whichever, occurs first.

2.3 The Employer's Agent and/or the Employer, shall advise the Guarantor in writing of the date on which the Certificate of Final Completion has been issued.

3. CONDITIONS APPLICABLE TO THE VARIABLE AND FIXED PERFORMANCE GUARANTEES

3.1 The Guarantor hereby acknowledges that:

3.1.1 Any reference in this Performance Guarantee to the 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.

3.1.2 Its obligation under this Performance Guarantee is restricted to the payment of money.

3.2 Subject to the Guarantor's maximum liability referred to in 1.1 or 2.1, the Guarantor hereby undertakes to pay the Employer the sum certified upon receipt of the documents identified in 3.2.1 to 3.2.3:

3.2.1 A copy of a first written demand issued by the Employer to the Contractor stating that payment of a sum certified by the Employer's Agent in an Interim or Final Payment Certificate has not been made in terms of the Contract and failing such payment within seven (7) calendar days, the Employer inten

s to call upon the Guarantor to make payment in terms of 3.2.2;

FORM 1

(PERFORMANCE SECURITY)



- 3.2.2 A first written demand issued by the Employer to the Guarantor at the Guarantor's physical address with a copy to the Contractor stating that a period of seven (7) days has elapsed since the first written demand in terms of 3.2.1 and the sum certified has still not been paid;
- 3.2.3 A copy of the aforesaid payment certificate which entitles the Employer to receive payment in terms of the Contract of the sum certified in 3.2.
- 3.3 Subject to the Guarantor's maximum liability referred to in 1.1 or 2.1, the Guarantor undertakes to pay to the Employer the Guaranteed Sum or the full outstanding balance upon receipt of a first written demand from the Employer to the Guarantor at the Guarantor's physical address calling up this Performance Guarantee, such demand stating that:
- 3.3.1 the Contract has been terminated due to the Contractor's default and that this Performance Guarantee is called up in terms of 3.3; or
- 3.3.2 a provisional or final sequestration or liquidation court order has been granted against the Contractor and that the Performance Guarantee is called up in terms of 3.3; and
- 3.3.3 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.
- 3.4 It is recorded that the aggregate amount of payments. required to be made by the Guarantor in terms of 3.2 and 3.3 shall not exceed the Guarantor's maximum liability in terms of 1.1 or 2.1.
- 3.5 Where the Guarantor has made payment in terms of 3.3, the Employer shall upon the date of issue of the Final Payment Certificate submit an expense account to the Guarantor showing how all monies received in terms of this Performance Guarantee have been expended and shall refund to the Guarantor any resulting surplus. All monies refunded to the Guarantor in terms of this Performance Guarantee shall bear interest at the prime overdraft rate of the Employer's bank compounded monthly and calculated from th
- date payment was made by the Guarantor to the Employer until the date of refund.
- 3.6 Payment by the Guarantor in terms of 3.2 or 3.3 shall be made within seven (7) calendar days upon receipt of the first written demand to the Guarantor.
- 3.7 Payment by the Guarantor in terms of 3.3 will only be made against the return of the original Performance Guarantee by the Employer.
- 3.8 The Employer shall have the absolute right to arrange his affairs with the Contractor in any manner which the Employer may consider fit and the Guarantor shall not have the right to claim his release from this Performance Guarantee on account of any conduct alleged to be prejudicial to the Guarantor.
- 3.9 The Guarantor chooses the physical address as stated above for the service of all notices for all purposes in connection herewith.
- 3.10 This Performance Guarantee is neither negotiable nor transferable and shall expire in terms of 1.1.2 or 2.2, where after no claims will be considered by the Guarantor. The original of this Guarantee shall be returned to the Guarantor after it has expired.
- 3.11 This Performance Guarantee, with the required demand notices in terms of 3.2 or 3.3, shall be regarded as a liquid document for the purposes of obtaining a court order.
- 3.12 Where this Performance Guarantee is issued in the Republic of South Africa the Guarantor hereby consents in terms of Section 45 of the Magistrates' 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.

FORM 1
(PERFORMANCE SECURITY)



Signed at:

Date:

Guarantor's signatory (1):

Capacity:

Guarantor's signatory (2):

Capacity:

Witness signatory (1):

Witness signatory (2):

**NATIONAL TREASURY
GENERAL CONDITIONS OF CONTRACT**



THE NATIONAL TREASURY

Republic of South Africa



**GOVERNMENT PROCUREMENT:
GENERAL CONDITIONS OF CONTRACT**

July 2010

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

NATIONAL TREASURY GENERAL CONDITIONS OF CONTRACT



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.

NATIONAL TREASURY GENERAL CONDITIONS OF CONTRACT



TABLE OF CLAUSES

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

General Conditions of Contract

1. Definitions

1. The following terms shall be interpreted as indicated:
 - 1.1. "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
 - 1.2. "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
 - 1.3. "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
 - 1.4. "Corrupt practice" means the offering, giving, receiving, or soliciting of anything 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.

NATIONAL TREASURY GCC



-
- 1.16. "Imported content" means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
 - 1.17. "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
 - 1.18. "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
 - 1.19. "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
 - 1.20. "Project site," where applicable, means the place indicated in bidding documents.
 - 1.21. "Purchaser" means the organization purchasing the goods.
 - 1.22. "Republic" means the Republic of South Africa.
 - 1.23. "SCC" means the Special Conditions of Contract.
 - 1.24. "Services" means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
 - 1.25. "Written" or "in writing" means handwritten in ink or any form of electronic or mechanical writing.

2. Application

- 2.1. These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2. Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3. Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

3. General

- 3.1. Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2. With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za

4. Standards

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

5. Use of contract documents and information; inspection.

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

NATIONAL TREASURY GCC



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- 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



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- 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.



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- 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 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 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 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 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 cancelling 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 antidumping 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 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 SCC.

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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 (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 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.

General Conditions of Contract (revised July 2010)

DEPARTMENT OF WATER AND SANITATION

DWS25-0125 WTE

**HIRE, SUPPLY, DELIVER AND SERVICE OF FLUSHABLE CHEMICAL TOILETS TO MZIMVUBU
WATER PROJECT FOR A PERIOD OF 48 MONTHS FOR CONSTRUCTION EAST NEAR
MACLEAR IN THE EASTERN CAPE PROVINCE**

NATIONAL TREASURY GCC



SECTION 2: TENDER DATA

CONTENTS

1. STIPULATIONS

NATIONAL TREASURY GCC



TENDER DATA

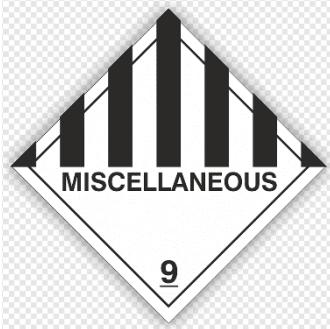

Initial next to each clause in this section

Bidders are required to sign at the end of this Section

	STIPULATIONS	INITIAL
1.	<p>SUPPLIER OF SERVICE</p> <p>Valid South African Waste Information Registration Certificate in terms of National Waste Information Regulations, 2012.</p> <p>Should the bidder own a licensed waste treatment facility, the bidder must attach a valid Waste Management License or Permit in terms of National Environmental Management Act from the waste treatment facility.</p> <p style="text-align: center;">OR</p> <p>Should the bidder outsource a licensed waste treatment facility, the bidder must attach a Confirmation letter (signed by the facility owner) or Agreement letter (signed by both parties) from the licensed waste treatment facility.</p>	
2.	<p>SERVICE</p> <p>The service to be rendered is:</p> <p>HIRE, SUPPLY, DELIVER AND SERVICE OF FLUSHABLE CHEMICAL TOILETS TO MZIMVUBU WATER PROJECT FOR A PERIOD OF 48 MONTHS FOR CONSTRUCTION EAST NEAR MACLEAR IN THE EASTERN CAPE PROVINCE</p>	
3.	<p>SITE</p> <p>The Department of Water and Sanitation Construction East site is situated on the following GPS Coordinates.</p> <p>Construction Site:</p> <p>Department of Water and Sanitation Construction East - Mzimvubu Water Project R396 Road Maclear Eastern Cape Province</p> <p>Coordinates - 31°07'19"S and 28°41'13"E.</p>	
4.	STANDARDS, SPECIFICATIONS AND DEFINITIONS APPLICABLE	
4.1	<p>Description</p> <ul style="list-style-type: none"> • Type: Flushable chemical toilets • Size: 880 x 920 x 1940 mm • Weight: 60kg • Quantity: 20 • Colour: blue, white doors, white roof cover • Ventilation • Roomy interior • Anti-slip floor surface • Occupancy signal latch • Roll holder • Carry handles • Toilet seat and flap • Free-standing basin with a foot pump 	

NATIONAL TREASURY GCC



	STIPULATIONS	INITIAL
	<ul style="list-style-type: none"> Flushing system 	
4.2	<p>Other specification</p> <ul style="list-style-type: none"> The portable chemical toilets shall be SABS approved and must be in good working conditions, flushable, and lockable inside and outside. The Department will require as proof of safe disposal; that the sewerage disposal clearing certificate to be obtained every time sewerage is discarded. The toilets should be portable and chemical flushing. The toilets should be lockable inside and outside. The toilets should have with hand wash basin. The toilets should have toilet paper roll holder. With the delivery of the chemical toilets on site: no toilet will be placed closer than 50m from a water source, this includes rivers and canals etc. As part of the maintenance plan; each chemical toilets must be serviced once a week over the entire contract period. Maintenance checklist and/ or delivery notes duly signed by an authorised DWS official will be required for every completed service as proof for record keeping and payment authorization. The service provider will on every visit (maintenance date) report first at the site office before carrying out any work (DWS will have the right to at any time appoint its official to accompany the service provider during maintenance.) The toilets should be maintained to an acceptable standard. Damaged or faulty toilets will be (as soon as practically possible) repaired or removed from site and replaced by working toilets. <p>Requirements for vehicle transporting the effluent</p> <p>The vehicle transporting the effluent must be suitable for the transport of effluent in accordance with SANS 10228 Transport of dangerous goods - Class 9 - Miscellaneous dangerous substances and articles, including environmentally hazardous substances - Refers to United Nations Standards 2.9.3.1.1 - Environmentally hazardous substances include, inter alia, liquid or solid substances pollutant to the aquatic environment and solutions and mixtures of such substances.</p> <div style="display: flex; justify-content: space-around; align-items: center;">   </div> <p>The bidder needs to familiarize himself with the OR Tambo District Municipality Water and Sanitation By-Laws.</p>	
4.3	Check list	

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	STIPULATIONS	INITIAL
	<ul style="list-style-type: none"> A weekly checklist must be completed and submitted to Site office together with service slips. Checklist points must include: <p>Inside:</p> <ul style="list-style-type: none"> Floor secure and clean Seat secure and clean Broken seats to be replaced Toilet Roll Holder Rook (Leaks and Cracks) Dispensers Basin Pump Flush System <p>Outside:</p> <ul style="list-style-type: none"> Door secured (hinges) Stickers / Labels / Logos / Male or Female sticker Vent Pipe Cabana Clean (free of cracks) Door Handle Door Spring Hasp & Staple <p>In use Sign-Working Order</p>	
6.	<p>SCOPE OF CONTRACT</p> <p>The Bidder will be required to perform the following service as part of this contract:</p> <ul style="list-style-type: none"> Hire, supply, deliver and service of flushable chemical toilets to Mzimvubu Water Project for a period of 48 months for construction east near Maclear in the Eastern Cape Province All transport and loading/offloading costs shall be included in the bid rates. 	
7.	<p>DELIVERY</p> <p>The Department will contact the winning supplier in advance to arrange a date and time on which the services must be rendered on-site.</p> <p>The delivery address is:</p> <p>Construction Site : Department of Water and Sanitation Construction East - Mzimvubu Water Project R396 Road Maclear Eastern Cape Province</p> <p>Coordinates - 31°07'19"S and 28°41'13"E.</p> <p>Deliveries may be made during the following working hours 7h30 to 16h00 from Monday to Friday but not on the following days or periods:</p> <ol style="list-style-type: none"> Fridays after 14h00 to Mondays 06h30 All public holidays The period 11 December to 7 January 	

NATIONAL TREASURY GCC



	STIPULATIONS	INITIAL
	<p>iv. The last Thursday and Friday of the month</p> <ul style="list-style-type: none"> The Bidder shall nominate a contact person with whom the Department will arrange and schedule delivery. DWS will decline products that do not comply with the specification when it is delivered. All deliveries shall be accompanied by a delivery note illustrating the correct specification of the material The declined items will be collected by the supplier/bidder within 48 hours of being declined or after a delivery. The ownership of and risk for the product purchased will pass to the Department at the point of delivery i.e. where a signed acceptance take place. Service slips will be required for every week when toilets are being serviced. Service slips needs to be signed off by a designated Departmental official upon servicing. No payments can be processed without service slips. 	
10.	<p>TECHNICAL SUPPORT</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"> Within 24 hours a representative of the supplier should be on site to resolve the problem. 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. <p>ANY DEFECTIVE PRODUCT WILL BE REPLACED AT THE SUPPLIER'S EXPENSE.</p>	
11.	<p>QUANTITIES</p> <p>The total quantity as per SBD 3.2</p> <ul style="list-style-type: none"> The contract period will be within 48 months. The attached schedule provides a unit price only. However, the requirements can be as per the demand specified in the orders. The Bidder will not be entitled to claim any form of compensation for any requirement variations in the total quantities or specific quantities whatsoever. The delivered material will be accepted and regarded as being in accordance with the specification if it fulfils the requirements given in hereunder. NOTE: THE DEPARTMENT RESERVES THE RIGHT TO CHANGE THE QUANTITY / QUANTITIES TO BE ORDERED FROM THE SUCCESSFUL BIDDER 	
12.	<p>PROGRAMME OF WORKS</p> <ul style="list-style-type: none"> Supply shall commence within 7 days after receipt of the official DWS order and as per notification by the end-user. 	

NATIONAL TREASURY GCC



	STIPULATIONS	INITIAL
13.	TRANSPORTATION <ul style="list-style-type: none"> All transport costs to be included on the SBD 3.2 (Pricing Schedule) 	
14.	PAYMENT <ul style="list-style-type: none"> Payment will be made per unit serviced on site. The Department reserves the right to check the quantities delivered at any time. Payment will be made monthly on receipt of specified tax invoices. Payment will not be made for consignment unless supported by delivery notes and weight-bridge slips duly signed by the official checking the material. Payment will be done within 30 days of receipt and approval of the original invoice by depositing the payment directly into the bank account of the successful bidder. No cash or cheque payment will be made. No upfront payment is to be made. No Payment for standing time will be made. 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. 	
15.	DELIVERY PERIOD AND BID PRICE <ul style="list-style-type: none"> All-inclusive bid prices are required, meaning delivery and any other cost mentioned in the specification for the Bidders account must be included in the unit price. Price adjustments will only be allowed if price adjustment form is completed. If price adjustment form is not completed all prices will be regarded as firm prices during the entire 48 months period and will not be subjected to escalation. Price adjustments will be allowed upon completion of the price adjustment form. The department will not entertain any claims for non-firm prices increases claimed at a later date, unless such non-firm price adjustments are clearly motivated in the form provided. 	
16.	PENALTIES AND DELAY DAMAGES <p>The penalties referred to in clause 22 of the National Treasury General Conditions of Contract 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 the termination of the contract pursuant to GCC clause 23.</p>	
17.	ACCEPTANCE CRITERIA FOR DELIVERED MATERIAL <p>The delivered material will be accepted and regarded as being like the specification if it fulfils the requirements given in Clause 4.1 to 4.3.</p>	
18.	SAFETY AND ENVIRONMENTAL <ul style="list-style-type: none"> Bidders are required to adhere to the department's Safety and Environmental policies. 	

NATIONAL TREASURY GCC



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

BIDDER'S SIGNATURE



SBD 3.2 PRICING SCHEDULE

DEPARTMENT OF WATER AND SANITATION

DWS25-0125 WTE

HIRE, SUPPLY, DELIVER AND SERVICE OF FLUSHABLE CHEMICAL TOILETS TO MZIMVUBU WATER PROJECT FOR A PERIOD OF 48 MONTHS FOR CONSTRUCTION EAST NEAR MACLEAR IN THE EASTERN CAPE PROVINCE

SECTION 3: SBD 3.2 – PRICING SCHEDULE

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SBD 3.2 PRICING SCHEDULE



PREAMBLE TO THE SBD 3.2 – PRICING SCHEDULE

1. GENERAL

The SBD 3.2 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 3.2 can be subject to change. The Department reserves the right to purchase a lesser quantity as indicated in the SBD 3.2 in conjunction with the service provider.

The validity of the contract will in no way be affected by differences between the quantities in the SBD 3.2 and the quantities finally certified for payment.

3. PRICING OF THE SCHEDULE

The rates to be filled in the SBD 3.2 should include all costs. All rates and amounts quoted in the SBD 3.2 shall be in Rand and shall include VAT.

4. CORRECTION OF ENTRIES

Incorrect entries shall not be erased or obliterated with correction fluid 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.

**PRICING SCHEDULE
(Non-Firm Price)**

DWS25-0125 WTE

HIRE, SUPPLY, DELIVER AND SERVICE OF FLUSHABLE CHEMICAL TOILETS TO MZIMVUBU WATER PROJECT FOR A PERIOD OF 48 MONTHS FOR CONSTRUCTION EAST NEAR MACLEAR IN THE EASTERN CAPE PROVINCE

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

CLOSING TIME ON:

BID NO.: DWS25-0125 WTE

NAME OF BIDDER:

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

ITEM	DESCRIPTION	QTY (up to a maximum of)	UNIT PRICE IN RSA CURRENCY	BID PRICE IN RSA CURRENCY <u>INCLUSIVE</u> OF **ALL APPLICABLE TAXES
1.	Hire of 20 flushable chemical toilets for a period of 48 months	20 units	Rper unit	R
2.	Servicing of 20 flushable chemical toilets once a week for a period of 48 months	20 units x 4 weeks x 48 months	Rper unit	R
3.	Delivery of flushable chemical toilets to site	20 units	Rper unit	R
4.	Collection of flushable chemical toilets from site	20 units	Rper unit	R
			SUB-TOTAL (EXCL. 15% VAT)	R
			15% VAT	R
			TOTAL (INCL. 15% VAT)	R

- Delivery basis.
(See note hereunder)

- Period required for delivery after receipt of order:

58.

MZIMVUBU WATER PROJECT ACCESS
ROAD NEAR MACLEAR IN THE
EASTERN CAPE PROVINCE
_____ 7 DAYS _____

- Location (quarry) where product is sourced from

Name and addresses of the quarry / supplier where the product is sourced from?

- Delivery period:
- Is the price firm?

*FIRM / NOT 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)

NOTE:

- All delivery and transport costs must be included in the bid price.
- Failure to complete all the relevant information in SBD 3.2 will render your bid non-responsive.

Any enquiries regarding bidding procedures may be directed to the –

Department of Water and Sanitation

Supply Chain Management Office
Private Bag X313, Pretoria, 0001.
Tel: (012) 336-6562 / 7780 / 7596 / 8151

Bid office- bidenquirieswte@dws.gov.za

Or

For technical or site information –

Mr. Z. Cele

Cell: 060 980 5392 (During office hours)

PRICE ADJUSTMENTS

A. NON-FIRM PRICES SUBJECT TO ESCALATION

1. IN CASES OF PERIOD CONTRACTS, NON FIRM PRICES WILL BE ADJUSTED (LOADED) WITH THE ASSESSED CONTRACT PRICE ADJUSTMENTS IMPLICIT IN NON FIRM PRICES WHEN CALCULATING THE COMPARATIVE PRICES
2. IN THIS CATEGORY PRICE ESCALATIONS WILL ONLY BE CONSIDERED IN TERMS OF THE FOLLOWING FORMULA:

$$Pa = (1 - V)Pt \left(D1 \frac{R1t}{R1o} + D2 \frac{R2t}{R2o} + D3 \frac{R3t}{R3o} + D4 \frac{D4t}{D4o} \right) + VPt$$

Where:

Pa	=	The new escalated price to be calculated.
(1-V)Pt	=	85% of the original bid price.
		Note that Pt must always be the original bid price and not an escalated price.
D1, D2..	=	Each factor of the bid price eg. labour, transport, clothing, footwear, etc. The total of the various factors D1,D2...etc. must add up to 100%.
R1t, R2t.....	=	Index figure obtained from new index (depends on the number of factors used).
R1o, R2o	=	Index figure at time of bidding.
VPt	=	15% of the original bid price. This portion of the bid price remains firm i.e. it is not subject to any price escalations.

3. The following index/indices must be used to calculate your bid price:

Index..... Dated..... Index..... Dated..... Index..... Dated.....

Index..... Dated..... Index..... Dated..... Index..... Dated.....

Note: Base month is the month in which the tender closed.

4. FURNISH A BREAKDOWN OF YOUR PRICE IN TERMS OF ABOVE-MENTIONED FORMULA. THE TOTAL OF THE VARIOUS FACTORS MUST ADD UP TO 100%.

FACTOR (D1, D2 etc. eg. Labour, transport etc.)	PERCENTAGE OF BID PRICE