



Tender Notice & Invitation to Tender			
Tender Number	Service Required	Evaluation Criteria	Compulsory Briefing session
OCJ2016/03	Appointment of a service provider for the Implementation of Electronic Court Filing Solution	Price =90 Preference Points=10	Date: 02 December 2016 Time: 10:00 AM Venue: Office of the Chief Justice; 188 14 <sup>th</sup> Road Noordwyk; Midrand. Ground Floor; Canteen
			Tender closing Date and Time Date: 07 December 2016 Time: 11:00 AM

**Mandatory Requirements for Proposals.** SITA Transversal Contract 1183 accreditation; The Declaration of Interest (SBD 4), Declaration of Bidder's Supply Chain Management Practices (SBD 8) and Certificate for Independent Bid Determination (SBD 9) must be completed, duly signed and submitted by the bidder at the closing date and time of the bid.  
**Failure to submit any of the above shall disqualify your bid.**

Completed Bid documents clearly marked with the relevant reference number and placed in a sealed envelope must be deposited in the tender box Ground Floor Reception Area Office of the Chief Justice 188 14<sup>th</sup> Road Noordwyk, Midrand  
Attention: Supply Chain Management not later than 11:00 am on or before closing date. **Faxed, electronic or late submissions will not be accepted.**

**Only companies who have submitted all of the above information will be considered for evaluation process. The Office of the Chief Justice is under no obligation to give reasons for non-acceptance/rejection of any submission.**



**SBD 1  
INVITATION TO BID**

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

BID NUMBER: OCJ2016/03

CLOSING DATE: 07 December 2016

CLOSING TIME: 11:00

DESCRIPTION: Appointment of a service provider for the implementation of Electronic Court Filing Solution

**The successful bidder will be required to fill in and sign a written Contract Form (SBD 7).**

BID DOCUMENTS MAY BE POSTED TO:.....  
OR .....

DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)

**Tender box Ground Floor Reception Area Office of the Chief Justice 188 14th Road Noordwyk, Midrand**

**Bidders should ensure that bids are delivered timeously to the correct address. If the bid is late, it will not be accepted for consideration.**

The bid box is generally open 24 hours a day, 7 days a week.

ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS – (NOT TO BE RE-TYPED)

THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2011, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT

THE FOLLOWING PARTICULARS MUST BE FURNISHED  
(FAILURE TO DO SO MAY RESULT IN YOUR BID BEING DISQUALIFIED)

NAME OF BIDDER

POSTAL ADDRESS

STREET ADDRESS

TELEPHONE NUMBER

CELLPHONE NUMBER

FACSIMILE NUMBER

E-MAIL ADDRESS

VAT REGISTRATION NUMBER

CODE.....NUMBER.....

CODE.....NUMBER.....

HAS AN ORIGINAL AND VALID TAX CLEARANCE CERTIFICATE BEEN SUBMITTED? (SBD 2)

YES or NO

HAS A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE BEEN SUBMITTED? (SBD 6.1)

YES or NO

IF YES, WHO WAS THE CERTIFICATE ISSUED BY?

AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA).....☐  
A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS); OR.....☐  
A REGISTERED AUDITOR .....☐  
[TICK APPLICABLE BOX]

**(A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE)**

ARE YOU THE ACCREDITED REPRESENTATIVE  
IN SOUTH AFRICA FOR THE GOODS / SERVICES / WORKS OFFERED?  
NO

YES or

[IF YES ENCLOSE PROOF]

SIGNATURE OF BIDDER .....

DATE .....

CAPACITY UNDER WHICH THIS BID IS SIGNED .....

TOTAL BID PRICE..... TOTAL NUMBER OF ITEMS OFFERED .....

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**ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:**

**Department: Office of the Chief Justice**

**Contact Person: Mr. B Mankwane**

**Tel : 010 493 2635**

**E-mail address: BMankwane@judiciary.org.za**

**ANY ENQUIRIES REGARDING TECHNICAL INFORMATION MAY BE DIRECTED TO:**

**Contact Person: Mr A Maholela**

**Tel: :010 49. 2558**

**E-mail address: amaholela@judiciary.org.za**

## TAX CLEARANCE CERTIFICATE REQUIREMENTS

It is a condition of bid that the taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.

- 1 In order to meet this requirement bidders are required to complete in full the attached form TCC 001 "Application for a Tax Clearance Certificate" and submit it to any SARS branch office nationally. The Tax Clearance Certificate Requirements are also applicable to foreign bidders / individuals who wish to submit bids.
- 2 SARS will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of 1 (one) year from the date of approval.
- 3 The original Tax Clearance Certificate must be submitted together with the bid. Failure to submit the original and valid Tax Clearance Certificate will result in the invalidation of the bid. Certified copies of the Tax Clearance Certificate will not be acceptable.
- 4 In bids where Consortia / Joint Ventures / Sub-contractors are involved, each party must submit a separate Tax Clearance Certificate.
- 5 Copies of the TCC 001 "Application for a Tax Clearance Certificate" form are available from any SARS branch office nationally or on the website [www.sars.gov.za](http://www.sars.gov.za).
- 6 Applications for the Tax Clearance Certificates may also be made via eFiling. In order to use this provision, taxpayers will need to register with SARS as eFilers through the website [www.sars.gov.za](http://www.sars.gov.za).

**SBD 3.1**

**PRICING SCHEDULE – FIRM PRICES  
(PURCHASES)**

**NOTE: ONLY FIRM PRICES WILL BE ACCEPTED. NON-FIRM PRICES (INCLUDING PRICES SUBJECT TO RATES OF EXCHANGE VARIATIONS) WILL NOT BE CONSIDERED**

**IN CASES WHERE DIFFERENT DELIVERY POINTS INFLUENCE THE PRICING, A SEPARATE PRICING SCHEDULE MUST BE SUBMITTED FOR EACH DELIVERY POINT**

Name of bidder.....	Bid number: .....
Closing Time .....	Closing date:.....

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

ITEM NO.	QUANTITY	DESCRIPTION	BID PRICE IN RSA CURRENCY ** (ALL APPLICABLE TAXES INCLUDED)
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- |   |  |                          |
|---|--|--------------------------|
| - | Required by:                                     | .....                    |
| - | At:  | .....                    |
| - | Brand and model                                  | .....                    |
| - | Country of origin                                | .....                    |
| - | Does the offer comply with the specification(s)? | *YES/NO                  |
| - | If not to specification, indicate deviation(s)   | .....                    |
| - | Period required for delivery                     | .....                    |
|   |  | *Delivery: Firm/not firm |
| - | Delivery basis                                   | .....                    |

**Note:** All delivery costs must be included in the bid price, for delivery at the prescribed destination.

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

\*Delete if not applicable



## DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state<sup>1</sup>, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-
  - the bidder is employed by the state; and/or
  - the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.
2. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**
  - 2.1 Full Name of bidder or his or her representative: \_\_\_\_\_
  - 2.2 Identity Number: \_\_\_\_\_
  - 2.3 Position occupied in the Company (director, trustee, shareholder<sup>2</sup>): \_\_\_\_\_
  - 2.4 Company Registration Number: \_\_\_\_\_
  - 2.5 Tax Reference Number: \_\_\_\_\_
  - 2.6 VAT Registration Number: \_\_\_\_\_
  - 2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

<sup>1</sup>"State" means –

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);



- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

<sup>2</sup>"Shareholder" means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.

2.7 Are you or any person connected with the bidder presently employed by the state? YES/NO

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member:

Name of state institution at which you or the person connected to the bidder is employed :

Position occupied in the state institution:

Any other particulars:

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? YES/NO

2.7.2.1 If yes, did you attached proof of such authority to the bid document? YES/NO

(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.

2.7.2.2 If no, furnish reasons for non-submission of such proof:



2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months?

YES/NO

2.8.1 If so, furnish particulars:

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2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid?

YES/NO

2.9.1 If so, furnish particulars.

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2.10 Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between any other bidder and any person employed by the state who may be involved with the evaluation and or adjudication of this bid?

YES/NO

2.10.1 If so, furnish particulars.

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

YES/NO

2.11.1 If so, furnish particulars:

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### 3 Full Details of Directors / Trustees / Members / Shareholders

FULL NAME	IDENTITY NUMBER	PERSONAL TAX REFERENCE NUMBER	STATE EMPLOYEE NUMBER / PERSAL NUMBER

### 4 DECLARATION

I, THE UNDERSIGNED (NAME) \_\_\_\_\_

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT.  
I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF  
PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION  
PROVE TO BE FALSE.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Position

\_\_\_\_\_  
Name of Bidder

## PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2011

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

**NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2011.**

### 1. GENERAL CONDITIONS

- 1.1 The following preference point systems are applicable to all bids:
- the 80/20 system for requirements with a Rand value of up to R1 000 000 (all applicable taxes included); and
  - the 90/10 system for requirements with a Rand value above R1 000 000 (all applicable taxes included).
- 1.2 The value of this bid is estimated to **exceed/not exceed** R1 000 000 (all applicable taxes included) and therefore the..... preference point system shall be applicable.
- 1.3 Preference points for this bid shall be awarded for:
- (a) Price; and
  - (b) B-BBEE Status Level of Contribution.
- 1.4 The maximum points for this bid are allocated as follows:

	POINTS
PRICE	
B-BBEE STATUS LEVEL OF CONTRIBUTION	
Total points for Price and B-BBEE must not exceed	100

- 1.5 Failure on the part of a bidder to submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS), or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or a sworn affidavit confirming annual turnover and level of black ownership in case of an EME and QSE together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.
- 1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.
- ### 2. DEFINITIONS
- (a) **"all applicable taxes"** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
  - (b) **"B-BBEE"** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
  - (c) **"B-BBEE status level of contributor"** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard

contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

- (d) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- (e) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (f) **“comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- (g) **“consortium or joint venture”** 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;
- (h) **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- (i) **“EME”** means an Exempted Micro Enterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (j) **“Firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- (k) **“functionality”** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- (l) **“non-firm prices”** means all prices other than “firm” prices;
- (m) **“person”** includes a juristic person;
- (n) **“QSE”** means a Qualifying Small EEnterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 ( Act No. 53 of 2003);
- (o) **“rand value”** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- (p) **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
- (q) **“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;
- (r) **“trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- (s) **“trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

### 3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts.
- 3.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
- 3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
- 3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

### 4. POINTS AWARDED FOR PRICE

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

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

$$P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right) \quad \text{or} \quad P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

- $P_s$  = Points scored for comparative price of bid under consideration
- $P_t$  = Comparative price of bid under consideration
- $P_{\min}$  = Comparative price of lowest acceptable bid

### 5. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTION

- 5.1 In terms of Regulation 5 (2) and 6 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	8	16
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

- 5.2 A bidder who qualifies as a EME in terms of the B-BBEE Act must submit a sworn affidavit confirming Annual Total Revenue and Level of Black Ownership.
- 5.3 A Bidder other than EME or QSE must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating

issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.

- 5.4 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 5.6 Tertiary Institutions and Public Entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 5.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

## 6. BID DECLARATION

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

## 7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 5.1

- 7.1 B-BBEE Status Level of Contribution: . = .....(maximum of 10 or 20 points)  
(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or a sworn affidavit.

## 8. SUB-CONTRACTING

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

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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- 8.1.1 If yes, indicate:

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

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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## 9. DECLARATION WITH REGARD TO COMPANY/FIRM

- 9.1 Name of company/firm:.....
- 9.2 VAT registration number:.....
- 9.3 Company registration number:.....

## 9.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

## 9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

.....

.....

## 9.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

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

9.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in paragraph 7 of the foregoing certificate, qualifies the company/firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
  - (a) disqualify the person from the bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, 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.

<b>WITNESSES</b>  1. ....  2. ....	<div>..... <b>SIGNATURE(S) OF BIDDERS(S)</b></div> <b>DATE:</b> ..... <b>ADDRESS</b> ..... ..... .....
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## DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? <b>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</b>  The Database of Restricted Suppliers now resides on the National Treasury's website ( <a href="http://www.treasury.gov.za">www.treasury.gov.za</a> ) and can be accessed by clicking on its link at the bottom of the home page.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? <b>The Register for Tender Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>



4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

**SBD 8**

### **CERTIFICATION**

**I, THE UNDERSIGNED (FULL NAME).....  
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION  
FORM IS TRUE AND CORRECT.**

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

.....  
**Signature**

.....  
**Date**

.....  
**Position**

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

Js365bW



## SBD 9

### CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Standard Bidding Document (SBD) must form part of all bids<sup>1</sup> invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).<sup>2</sup> Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
  - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
  - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

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

<sup>2</sup> Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

**SBD 9**

### **CERTIFICATE OF INDEPENDENT BID DETERMINATION**

I, the undersigned, in submitting the accompanying bid:

---

(Bid Number and Description)

in response to the invitation for the bid made by:

---

(Name of Institution)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: \_\_\_\_\_ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:

(a) has been requested to submit a bid in response to this bid invitation;

- (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
- (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

**SBD 9**

6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium<sup>3</sup> will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - (a) prices;
  - (b) geographical area where product or service will be rendered (market allocation)
  - (c) methods, factors or formulas used to calculate prices;
  - (d) the intention or decision to submit or not to submit, a bid;
  - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
  - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

<sup>3</sup> Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

**SBD 9**

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

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

Js914w 2

# **THE NATIONAL TREASURY**

**Republic of South Africa**



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

**July 2010**

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

**NOTES**

The purpose of this document is to:

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

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

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

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## **General Conditions of Contract**

### **1. Definitions**

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

RSA.

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

obligations of the supplier covered under the contract.

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

**2. Application**

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

**3. General**

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

**4. Standards**

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

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

- 5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

**6. Patent rights**

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

**7. Performance security**

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

**8. Inspections, tests and analyses**

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

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

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

**9. Packing**

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

**10. Delivery and documents**

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

**11. Insurance**

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

**12. Transportation**

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

**13. Incidental services**

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

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

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

#### 14. Spare parts

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

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

#### 15. Warranty

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

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

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

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

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

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

**16. Payment**

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

**17. Prices**

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

**18. Contract amendments**

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

**19. Assignment**

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

**20. Subcontracts**

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

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

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

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

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

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

## **22. Penalties**

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

## **23. Termination for default**

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

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

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

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

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



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

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

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

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

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

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

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

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

may be due to him

**25. Force Majeure**

25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.

25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

**26. Termination for insolvency**

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

**27. Settlement of Disputes**

27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

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

27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

27.5 Notwithstanding any reference to mediation and/or court proceedings herein,

- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
- (b) the purchaser shall pay the supplier any monies due the supplier.

**28. Limitation of liability**

28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;

- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

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

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

Js General Conditions of Contract (revised July 2010)

# **TERMS OF REFERENCE FOR THE IMPLEMENTATION OF ELECTRONIC COURT FILING SOLUTION**



**OFFICE OF THE CHIEF JUSTICE  
REPUBLIC OF SOUTH AFRICA**

## **TERMS OF REFERENCE E-COURT FILING**

# **TERMS OF REFERENCE FOR THE IMPLEMENTATION OF ELECTRONIC COURT FILING SOLUTION**

## **1. PURPOSE**

- 1.1 The purpose of the Terms of Reference is to request proposals for the procurement of the E- Court Filing solution for the courts in line with the business requirements. The implementation and functioning of the E-Court Filing Solution must be based on the Business Requirement Specifications (BRS) and related documentation.

## **2. PROJECT NAME**

- 2.1 Electronic Court Filing Solution (E-Court Filing)

## **3. BACKGROUND**

- 3.1 The Office of the Chief Justice (OCJ) is a newly established National Department proclaimed by the President of the Republic of South Africa on 23 August 2010. Subsequent to the Proclamation of the OCJ as a National Department, the Minister for Public Service and Administration made a determination regarding the purpose and objectives of the OCJ as follows: -
- To ensure that the Chief Justice can properly execute his mandate as both the head of the Constitutional Court and the head of the Judiciary;
  - To enhance the institutional, administrative and financial independence of the OCJ; and
  - To improve organizational governance and accountability, and the effective and efficient use of resources.
- 3.2 The main challenge affecting the Superior Courts is that the courts handle a lot of paper records throughout the court administration process. These include dockets, case files and judgements. The OCJ would like to implement an electronic court filing (E-Court Filing) system to manage, secure and ensure sharing of records in

## **TERMS OF REFERENCE FOR THE IMPLEMENTATION OF ELECTRONIC COURT FILING SOLUTION**

order to improve efficiency and improve quality of service delivery to the public. The use of digital technology is critical in managing and securing all records linked to a case.

### **4. E-FILING**

#### **4.1 Scope**

The scope includes:

- 4.1.1. Procure a complete comprehensive packaged solution;
- 4.1.2. Demonstration of the solution;
- 4.1.3. Solution must be able to integrate with any other existing systems at Superior Courts;
- 4.1.4. Migration of data from third party systems must be accommodated;
- 4.1.5. Solution must be hosted with high availability;
- 4.1.6. Solution must be designed for high security;
- 4.1.7. Verification, validation and confirmation of all required features and functionality as per attached Business Requirement Specifications (BRS),

#### **4.2 Technical Requirements**

The following technical requirements must be adhered to:

- 1) The solution must be Web-based
- 2) Include all the functionalities outlined in the attached Business Requirement Specifications (BRS).
- 3) The solution must be able to integrate notifications to users.

## **TERMS OF REFERENCE FOR THE IMPLEMENTATION OF ELECTRONIC COURT FILING SOLUTION**

- 4) The proposed solution must meet all the critical business requirements
- 5) The proposed solution must support collaboration, document and records management.
- 6) The proposed solution must support Information security for Enterprise Content Management ( e.g. digital rights management and electronic signatures)
- 7) The proposal must include the Implementation methodology and approach
- 8) The proposed solution must support ease of integration with 3<sup>rd</sup> party systems
- 9) The proposed solution must stable and reliable
- 10) The proposed solution must be scalable in terms of implementation
- 11) The proposal must include a Software Licensing Model

### **4.3 Deliverables**

- 4.3.1. Solution must be based on the latest technology (attach technology road map).
- 4.3.2. Verification of the business requirements for the E-Filing system,
- 4.3.3. The solution must include all functionality in terms of the Business Requirements Specifications (BRS)
- 4.3.4. System design blue print based on business requirements.
- 4.3.5. Customization of the E-Filing system in line with the BRS
- 4.3.6. Piloting of a functioning system in at least 4 sites to demonstrate the following:
  1. Ease of use;
  2. Ease of access;
  3. Ease of integration;
  4. Technology type & roadmap.
- 4.3.7. Training of users of the system (+- 1000)
- 4.3.8. Draft Service Level Agreement (SLA) for support and maintenance



## **TERMS OF REFERENCE FOR THE IMPLEMENTATION OF ELECTRONIC COURT FILING SOLUTION**

### **5 SUPPORT AND MAINTENANCE**

- 5.1 Post implementation support, and maintenance SLA for the software tool, to be entered into.
- 5.2 Provision of support and maintenance of the system for a period of three years.

### **6. GENERAL CONDITIONS**

- 6.1 The general conditions of contract as prescribed by National Treasury will be applicable in all instances.
- 6.2 The draft SLA must be submitted with the proposal.
- 6.3 A compulsory briefing session will be held on the 2<sup>nd</sup> December 2016 at 10h00

### **7. TIME FRAMES**

The project is planned to be completed within a period of 6 months upon issuing a purchase order to a prospective service provider.

### **8. SKILLS, KNOWLEDGE AND EXPERIENCE REQUIRED**

- 8.1 The prospective service provider must have extensive experience and a proven track record in the ICT field.
- 8.2 Solid experience and a proven track record with technology solution implementation / software solution implementation.

The service provider must have adequate skilled resources to implement the E-Court Filing system.

## **TERMS OF REFERENCE FOR THE IMPLEMENTATION OF ELECTRONIC COURT FILING SOLUTION**

### **9. ADMINISTRATIVE REQUIREMENTS**

9.1 Bidders are required to submit their bids with the following information:

- a) Original Valid Tax Clearance Certificate;
- b) Company/CC/Trust/Partnership registration certificates;
- c) Duly completed, signed Joint Venture Agreement and Power of Attorney in case of Joint Ventures;
- d) Company Profile;
- e) Certified copies of company director's identity documents\cards;
- f) Duly signed and completed Standard Bidding Documents (SBD) 1-9;
- g) Fully completed pricing schedule and
- h) B-BBEE verification certificate from an accredited agency

### **10. FUNCTIONAL EVALUATION**

10.1 All responsive bids will be subjected to a pre-qualification evaluation on functionality. Bids not obtaining a minimum of 70 points on functionality will be excluded for further evaluation.

10.2 Proposals will be evaluated and points will be allocated on the following basis for functionality:

	<b>CRITERIA</b>	<b>WEIGHT</b>
1.	Track Record  Bidders are requested to provide five contactable reference sites and written testimonial letters where a successful implementation of a projects of similar nature has been implemented.	<b>40</b>

## TERMS OF REFERENCE FOR THE IMPLEMENTATION OF ELECTRONIC COURT FILING SOLUTION

	<b>CRITERIA</b>	<b>WEIGHT</b>
	5 or more reference sites with signed letters = 5 points 3-4 Valid Contacts with signed letters = 3 points 2 Valid Contacts with signed letters = 2 points	
2.	<b>Detailed Methodology and Project Plan:</b>  How is the service provider going to roll out the project: Detailed Methodology and Project Plan = 5 points Detailed Project Plan only = 2 points Detailed Methodology = 2 points	<b>20</b>
3.	<b>Experience of Key Project Personnel</b>  <b>CV's with experience in:</b> <ol style="list-style-type: none"> <li>1. Software development and customization</li> <li>2. Project and Change management</li> </ol> <b>Project Management: (10)</b> 5 or more years' experience = 5 points 4 Years = 4 points 3 Years = 3 points 2 Years = 2 points 1 Year = 1 point  <b>Change Management: (10)</b> 5 or more Years' experience = 5 points	<b>30</b>

## TERMS OF REFERENCE FOR THE IMPLEMENTATION OF ELECTRONIC COURT FILING SOLUTION

	CRITERIA	WEIGHT
	4 Years =4 points 3 Years =3 points 2 Years = 2 points 1 Year = 1 point  Software development and customization: (10) 5 or more years' experience = 5 points 4 Years =4 points 3 Years =3 points 2 Years = 2 points 1 Year = 1 points	
4	Certification of Key Project Personnel 1. Project Management only = 2 points 2. System development only = 2 points Both = 5 points	10
	<b>TOTAL</b>	<b>100</b>

**Bidders will be rated on the ratings stated below:**

0 - Very Poor    1 – Poor    2- Fair                      3 – Good    4 - Very Good                      5 – Excellent

Score = (Acquired Rating) X (Criteria Weight) / (Maximum Rating)

Example for Criteria 1, if the bidder acquired rating of 3

## TERMS OF REFERENCE FOR THE IMPLEMENTATION OF ELECTRONIC COURT FILING SOLUTION

$$\text{Score} = 3 \times 40 / 5 = 24$$

Bidders are required to attach all necessary documentation with regard to the above functionality criteria in order for the Bid Evaluation Committee to evaluate the bid.

### 11 PROCUREMENT PREFERENCE POINTS

The 90/10 evaluation method will be applied as follows 90 for price and 10 for B-BBEE points which will be (3) or 6(3) of the PPPFA Regulations of 2011.

**It will be awarded subject to sub-regulation 5(3) and /or 6(3), points must be awarded to a tenderer for attaining B-BBEE status level contributor in accordance with the table below:**

The 90/10 evaluation method will be applied as follows

- a. 90 for price and 10 for B-BBEE
- b. It will be awarded as per sub-regulation 5(3) and /or 6(3)
- c. Points will be awarded to a tenderer for attaining B-BBEE status level contributor in accordance with the table below:

<b>B-BBEE Status Level of Contributor</b>	<b>Number of Points (90/10 system)</b>
<b>1</b>	<b>10</b>
<b>2</b>	<b>9</b>
<b>3</b>	<b>8</b>
<b>4</b>	<b>5</b>
<b>5</b>	<b>4</b>
<b>6</b>	<b>3</b>
<b>7</b>	<b>2</b>
<b>8</b>	<b>1</b>
<b>Non-compliant contributor</b>	<b>0</b>

## TERMS OF REFERENCE FOR THE IMPLEMENTATION OF ELECTRONIC COURT FILING SOLUTION

### 12 PRICING SCHEDULE

Pricing must be broken down per milestone

The price breakdown must be completed as per the template provided below.

Bidders must provide firm prices, not subject to rate of exchange.

Item	Description	Quantity	Price
<b>Customization</b>	Design and Configurations in line with the BRS		
<b>Implementation</b>	The E-Filing system implementation		
<b>Training</b>	User training		
<b>Change Management</b>	Awareness and Change management to all affected stakeholders		
<b>Closeout</b>	Project sign off		
<b>Support and Maintenance</b>	Annual maintenance and support		
<b>Project management</b>	Project management cost		
<b>License</b>	Software licensing costs		
<b>Hosting</b>	Annual costs for hosting of the proposed Solution		
<b>SubTotal</b>			
<b>VAT(14%)</b>			
<b>Total</b>			

## **TERMS OF REFERENCE FOR THE IMPLEMENTATION OF ELECTRONIC COURT FILING SOLUTION**

### **13. PROPRIETARY RIGHTS**

- 13.1 The OCJ shall become the owner of all information, documents, advice, and reports collected and compiled by the service provider to be appointed.
- 13.2 The copy rights of all documents and reports compiled by the service provider will vest in the OCJ and may not be reproduced, distributed or made available without the written consent and approval of the OCJ.
- 13.3 All information, documents, and reports must be regarded as confidential until made public by the OCJ.
- 13.4 OCJ shall retain exclusive property rights to all work undertaken in terms of this bid.

### **14. FACILITIES TO BE PROVIDED BY THE OCJ**

- 14.1 During the project the OCJ officials will make themselves available for clarity, reporting processes, discussions and meetings. The service provider will also have access to required documents and other records available within the Department that may assist in executing the project.

### **15. REPORTING ARRANGEMENTS**

- 15.1 All deliverables should be submitted to the OCJ. Any deliverable submitted and not accepted must be reworked and resubmitted at no additional cost.
- 15.2 The service provider will provide a single overall Project Manager for this project.
- 15.3 A comprehensive bi-weekly status report will be submitted by the service provider.
- 15.4 A comprehensive report will be submitted by the service provider in line with project milestones as stipulated in the agreed and approved project plan.

## **TERMS OF REFERENCE FOR THE IMPLEMENTATION OF ELECTRONIC COURT FILING SOLUTION**

### **16. SUBMISSIONS**

16.1 The following information must be endorsed on each envelope:

- **Bid number:**
- **Closing date:**
- **Name of the Bidder:**
- **Proposal:**

### **17. DISQUALIFYING CRITERIA**

17.1 Non-compliance with the below conditions will result in automatic disqualification

- a) Failure to attend compulsory briefing session;
- b) Charging VAT while not a VAT Vendor;
- c) Failure to duly sign and complete Standard Bidding Documents (SBD) 4, 8 and 9.
- d) Bidders must be listed on the SITA contract 1183.

### **18. ENQUIRIES**

18.1 Technical Enquiries: Alex Maholela, 010 493 2550, [amaholela@judiciary.org.za](mailto:amaholela@judiciary.org.za) or Arthur Kekana, 010 493 2552, [akekana@judiciary.org.za](mailto:akekana@judiciary.org.za)

18.2 Supply Chain Enquiries: Bongani Mankwane, 010 493 2500, [bmankwane@judiciary.org.za](mailto:bmankwane@judiciary.org.za)





# Office of the Chief Justice (OCJ)

## **Business Requirements Specification: e-Filing**



## 1. eFiling

The eFiling system makes up part of the digital justice system and includes all capabilities for managing, storing, publishing and retrieving case files, case documentation, evidence, court orders, judgements and all other relevant documentation.



### 1.1. High-level Business Architecture

The business requirements will encompass the following business processes with its related sub-processes:

1. **Case Initiation and Registration** – This process comprises the submission of the initial documents by the applicant and the registration of a new case by the court
2. **Pleadings** – This process comprises the exchange of documentation between the parties in dispute and the submission of said document to the court
3. **Pre-Trial / Hearing Proceedings** – This process comprises all documentation submissions and actions which occur directly before the court proceedings
4. **Trial Proceedings** – This process comprises the actual trial itself and all relevant actions supporting it including the judgement and sentencing court proceedings
5. **Post-Trial / Hearing Proceedings** – This process comprises the appeal, review, case monitoring and reporting where relevant



**Business Requirements Specification: e-Filing**  
Electronic Court Filing System – Phase 1 (Plan and Analyse)

## 1.2. Overall Business Requirements Specifications

The following requirements apply to the entire value chain:

Requirement Description	Justice Process	Standard feature? (Yes=Y/ No=N)	Further Details & Comments
Citizens, Litigants, Accused must be able to choose the type of notification channel (email, sms etc) and when the notifications must be sent (after document submissions, after process stages etc)	Civil and Criminal		
Citizens, Litigants, Registrar, Accused, Prosecutor, Control Prosecutor, Clerk or Judge / Magistrate must be able to choose language of choice for the portal	Civil and Criminal		
When Citizens login to the system they should be able to view and access all case folders that they are involved in so that they access and read their case files easily	Civil		
When Litigants login to the system they should be able to view all case folders and files across all cases that they are representing so that they can access and read any case file easily	Civil		
A Registrar should be able to apply a digital signature and automatic case number to online documentation so that they do not need to print and re-upload documents	Civil		
Citizens, Litigants, Registrar or Clerk should be able to scan and upload files directly to the portal	Civil		



**Business Requirements Specification: e-Filing**  
Electronic Court Filing System – Phase 1 (Plan and Analyse)

Requirement Description	Justice Process	Standard feature? (Yos=Y/ No=N)	Further Details & Comments
thereby eliminating the need to scan, save and upload files			
A Registrar or Clerk should be able to open, initiate and file on behalf of Citizens so that they can help them in the event that they are unable to do so themselves	Civil		
Citizens or Litigants completing an online template for submission, known details are pre populated by the system so that it saves time not having to duplicate input details they have previously submitted	Civil		
Citizens, Litigants or Court Employees should be able to see information on submission details including who submitted / edited which document together with a timestamp so that they know who added or edited a document	Civil		
Citizens, Litigants, Registrar, Clerk or Judge involved in a case are the only ones who can view the online case documentation before case finalisation so that a level of security is maintained at all times	Civil		
Citizens, Accused or Litigants should not be able to edit documents that have already been submitted to the case file, although they can at any stage submit an amendment to a document so that the integrity of all documents are maintained	Civil and Criminal		



**Business Requirements Specification: e-Filing**  
Electronic Court Filing System – Phase 1 (Plan and Analyse)

Requirement Description	Justice Process	Standard feature? (Yes=Y/ No=N)	Further Details & Comments
Court Employee should not be able to edit documents that have already been submitted to the case file, so that the integrity of all documents are maintained	Civil and Criminal		
Citizens or Litigants researching a case should be able to access the portal and view all judgements and relevant case files where applicable so that court information is easily accessible without having to go into the relevant court	Civil		
Registrars should be able to search for court orders so that they can verify that it is real when they are handed one	Civil		
Registrar or Clerk should be able to search for any case file so that they can see the status, submitted documentation and should be able to add documentation if necessary	Civil		
Litigants, Accused or Investigating Officer should be able to copy and paste information in the online templates for completion so that they do not have to retype information	Criminal		
Litigants, Accused, Attorney-General, public Prosecutor, Commissioned Police Officer should be able to choose to download the template so that they can complete it offline and submit it when ready	Criminal		
Litigants, Accused, Litigants, Attorney-General, public Prosecutor, Commissioned Police Officer	Criminal		



**Business Requirements Specification: e-Filing**  
Electronic Court Filing System – Phase 1 (Plan and Analyze)

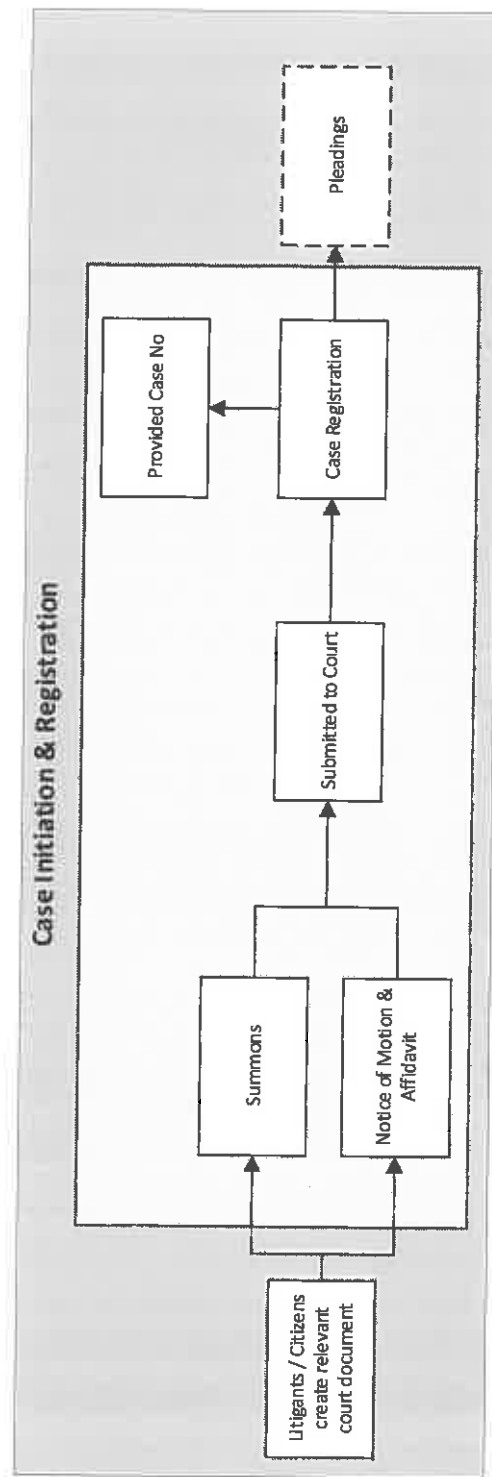
Requirement Description	Justice Process	Standard feature? (Yes=Y/ No=N)	Further Details & Comments
should be able to resume working on an online template that was previously saved draft so that They do not lose information between online sessions			
Litigants should be able to choose to submit documentation and applications on behalf of my client through the online portal so that they can reliably act on their behalf	Criminal		
Litigants, Attorney-General, Public Prosecutor, Commissioned Police Officer or Accused should be able to access case documentation so that they can read or append files	Criminal		
Judge / Magistrate, Control Prosecutor, Clerk and Prosecutor Should be able to login to the system and view all my case files so that they can read or append any files	Criminal		



**Business Requirements Specification: e-Filing**  
Electronic Court Filing System ~ Phase 1 (Plan and Analyse)

### 1.3. Case Initiation & Registration

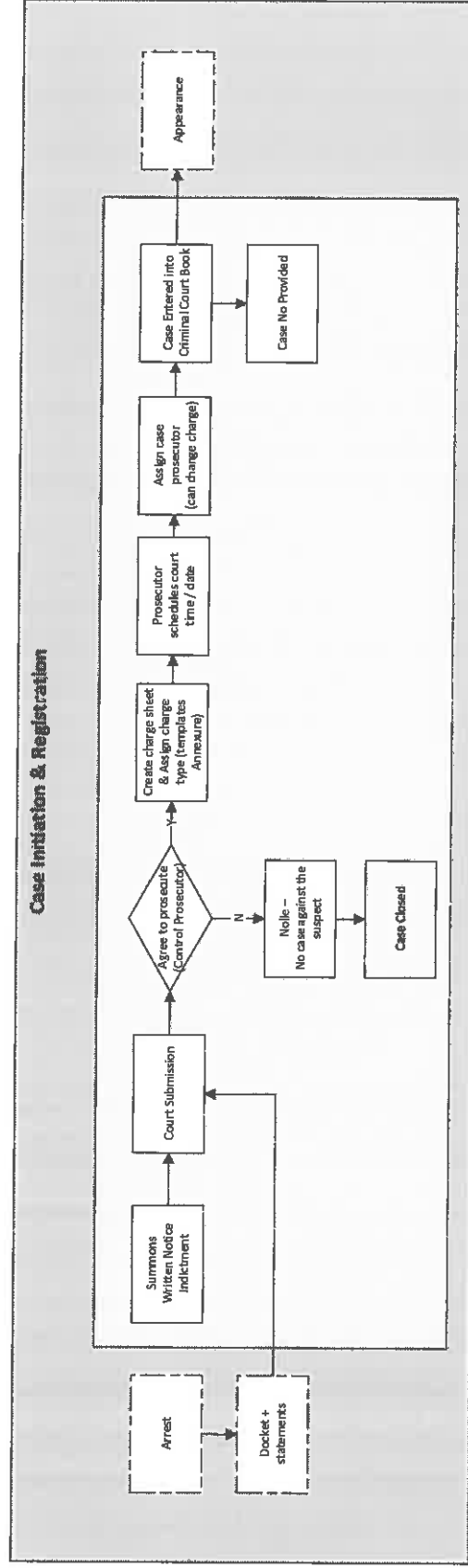
#### 1.3.1. Process activities



**Figure 1: Civil Case Initiation & Registration**



**Business Requirements Specification: e-Filing**  
Electronic Court Filing System – Phase 1 (Plan and Analyse)



**Figure 2: Criminal Case Initiation & Registration**





**Business Requirements Specification: e-Filing**  
Electronic Court Filing System – Phase 1 (Plan and Analyse)

**1.3.2. Civil Business Requirements Specifications**

Requirement Description	Justice Process	Standard Feature? (Yes=Y/ No=N)	Further Details & Comments
Citizens need to create a once-off online profile so that they can access the court eFiling system	Civil		
Citizens must enter my ID as part of my profile creation, which is verified with the home affairs system along with all my other information so that I am a verified Citizens	Civil		
Litigants need to create a once-off online profile so that they can create and access all my client's case documentation	Civil		
Citizens, Litigants must have the ability to choose the type of notification channel (email, sms etc.) and when the notifications must be sent (after document submissions, after process stages etc.)	Civil		
Citizens, Litigants, Registrar, Clerk or Judge Should be able to choose the language of choice so they can easily use and understand the portal	Civil		



**Business Requirements Specification: e-Filing**  
Electronic Court Filing System – Phase 1 (Plan and Analyse)

Requirement Description	Justice Process	Standard Feature? (Yes=Y/ No=N)	Further Details & Comments
The Litigants once they create an online profile, the details must be verified with the Law society or Advocates Bar to verify practising Litigants	Civil		
Litigants should no longer access the e-filing system if they are no longer registered with the law society or advocates bar so that all cases are created by practising registered Litigants	Civil		
The Judge, must have the option of choosing upon registration of their account as to whether they want files to be presented digitally or in hardcopy.	Civil		
The Judge, Court Clerk or Registrar must be provided with employee login details to the online web portal so they can view and search for any and all cases	Civil		
The Citizens or Litigants Should be able to complete online templates to create summons and notices of motions so that they can submit the correct documentation in the correct format	Civil		
Citizens or Litigants Should be able to resume working on an online template that was previously saved draft so that they do not lose information between online sessions	Civil		
Citizens or Litigants Should be able to choose to download the template so that they can complete it offline and submit it when ready	Civil		
Citizens or Litigants Should be able to upload their documentation case file in PDF format so that they can	Civil		



**Business Requirements Specification: e-Filing**  
Electronic Court Filing System – Phase 1 (Plan and Analyse)

Requirement Description	Justice Process	Standard Feature? (Yes=Y/ No=N)	Further Details & Comments
work offline and create their own documentation for online submission			
Citizens or Litigants must be able to copy and paste information in the online templates for completion so that they do not have to retype information	Civil		
When Citizens login to the system they should be able to view and access all case folders their involved in so that they can access and read their case files easily	Civil		
When Litigants login to the system they Should be able to view all case folders and files across all cases they representing so that they can access and read any case file easily	Civil		
Registrar Should be able to apply a digital signature and automatic case number to online documentation so that they do not need to print and re-upload documents	Civil		
Citizens or Litigants Should be able to upload the proof of service to the online case file so they can kick-start the case registration	Civil		
Citizens, Litigants, Registrar or Clerk Should be able to scan and upload files directly to the portal thereby eliminating the need to scan, save and upload files	Civil		
The Registrar or Clerk Should be able to open, initiate and file on behalf of Citizens so that they can help them in the event that they are unable to do so themselves	Civil		



**Business Requirements Specification: e-Filing**  
Electronic Court Filing System – Phase 1 (Plan and Analyse)

**1.3.3. Criminal Business Requirements Specifications**

Requirement Description	Justice Process	Further Details & Comments
The Investigating Officer, should be able to create their profile online so that they can initiate a case registration	Criminal	
Investigating Officer must be able to search for accused details/profile in any previous criminal/court matters	Criminal	
The Investigating Officer should be able to upload/scan and upload in PDF format or complete online the docket(with statement and evidence) as prompted by the system	Criminal	
The Control Prosecutor Should be able to login to the system and have a view of all pending documentation that requires my action	Criminal	
The Control Prosecutor should be able to choose to accept the case in which they will choose the type of case based on the criminal activity conducted, and should be able to create the Charge Sheet with automatic case number assignment	Criminal	
The Control Prosecutor should be able to close the case so that status can be updated automatically	Criminal	
If the Investigating Officer's case is queried, they should be able to submit requested information online in response to the Control Prosecutor	Criminal	
When the Magistrate / Judge, login to the system they should have a view of all documents pending that require their approval / rejection	Criminal	



**Business Requirements Specification: e-Filing**  
Electronic Court Filing System – Phase 1 (Plan and Analyse)

Requirement Description	Justice Process	Further Details & Comments
The Control Prosecutor , should be able to login and view all pending cases that require approval / rejection for a summons/indictment applications	Criminal	
The Control Prosecutor, after approving the summons/indictment should be able to confirm the charge type and select the case complexity classification so that a Case Prosecutor and case number can be automatically assigned	Criminal	
The Judge / Magistrate, Control Prosecutor, Clerk and Prosecutor Should be able to login to the system and view all my case files so that they can track all changes made to these files	Criminal	
The Litigants, Accused, Investigating Officer, Should be able to submit evidence to the system so that it is stored in the case file for the appearance and trial	Criminal	
The Litigants, Accused, Investigating Officer, Should be able to capture information on where to find filed physical case evidence for material which cannot be digitised	Criminal	



**Business Requirements Specification: e-Filing**  
Electronic Court Filing System – Phase 1 (Plan and Analyse)

## 1.4. Civil Pleadings

### 1.4.1. Process activities

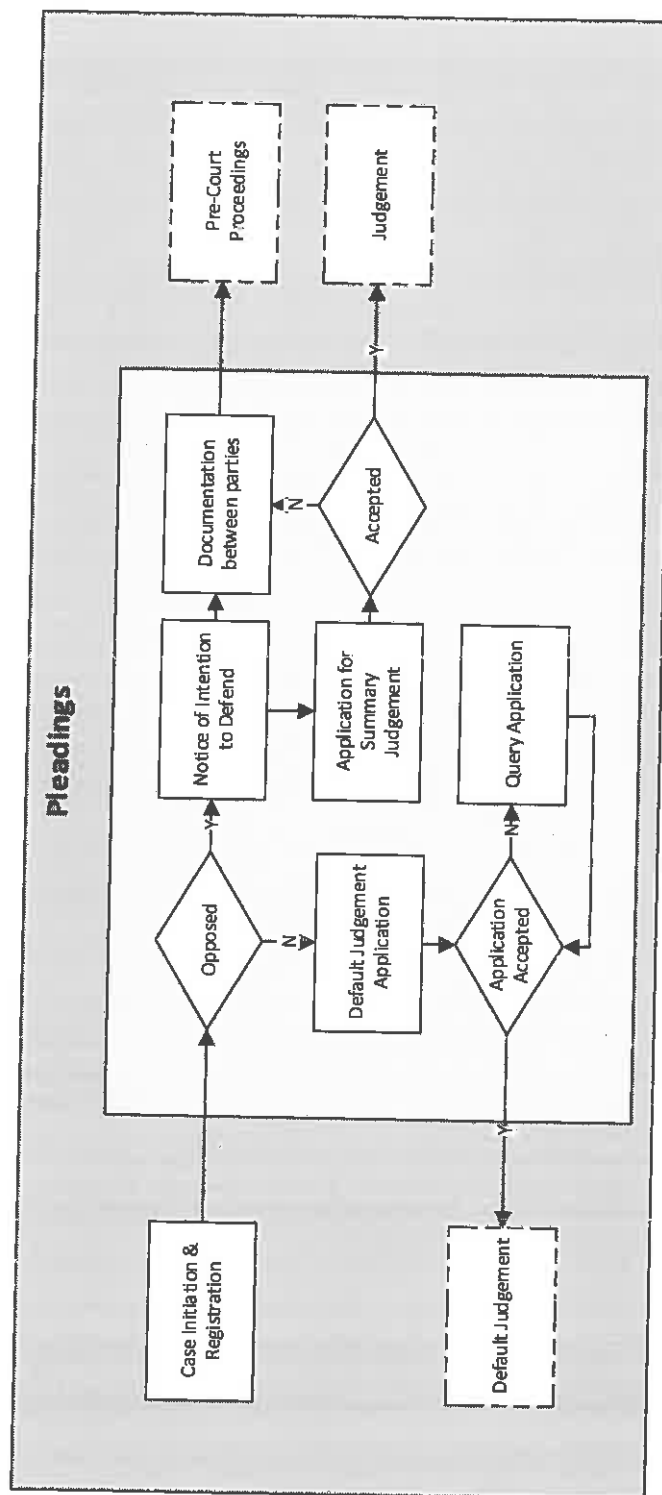


Figure 3: Civil Pleadings Phase



**Business Requirements Specification: e-Filing**  
Electronic Court Filing System – Phase 1 (Plan and Analyse)

**1.4.2. Business Requirements Specifications - Civil**

Requirement Description	Justice Process	Further Details & Comments
The Citizens or Litigants should be able to choose the type of document they wish to submit from a dropdown so that they can get access to online templates if required and applicable	Civil	
The Citizens or Litigants should be able to choose the type of document they wish to submit from a dropdown so that the document they submit or upload will be placed into the correct folder or subfolder in the case file	Civil	
The Citizens or Litigants should be shown a confirmation of submission message so I know that my file has been successfully uploaded	Civil	
The Citizens or Litigants should be able to file for a notice of bar through the online system so that they can immediately prevent any further submissions from the other party being recognised by the court	Civil	
The Registrar should have a view of notice of bar applications so that they can grant or reject the application timeously	Civil	
The registrar once granted a notice of bar application should be able to generate a court order so the other party can no longer file documents with the court	Civil	
The Registrar should be able to disable a party from submitting documentation to the case file so that a court order barring the party from submitting prevents them from doing so online as well	Civil	



**Business Requirements Specification: e-Filing**  
Electronic Court Filing System – Phase 1 (Plan and Analyse)

Requirement Description	Justice Process	Further Details & Comments
The Citizens or Litigants should be able to apply for a default judgement online in a case in which they are the plaintiff or applicant so that they can close the case quicker	Civil	
Citizens or Litigants acting plaintiff in a civil case should be able to make an application for summary judgement through the online portal by either online template or PDF upload	Civil	
The Citizens or Litigants acting defendant in a civil case should be able to make an application for exception through the online portal by either online template or PDF upload	Civil	
The Judge should be able to view all applications for summary judgements and exceptions so that they can grant or reject summary judgements and exceptions online	Civil	





## 1.5. Pre-Trial / Hearing Proceedings or Criminal First Appearance

### 1.5.1. Process activities

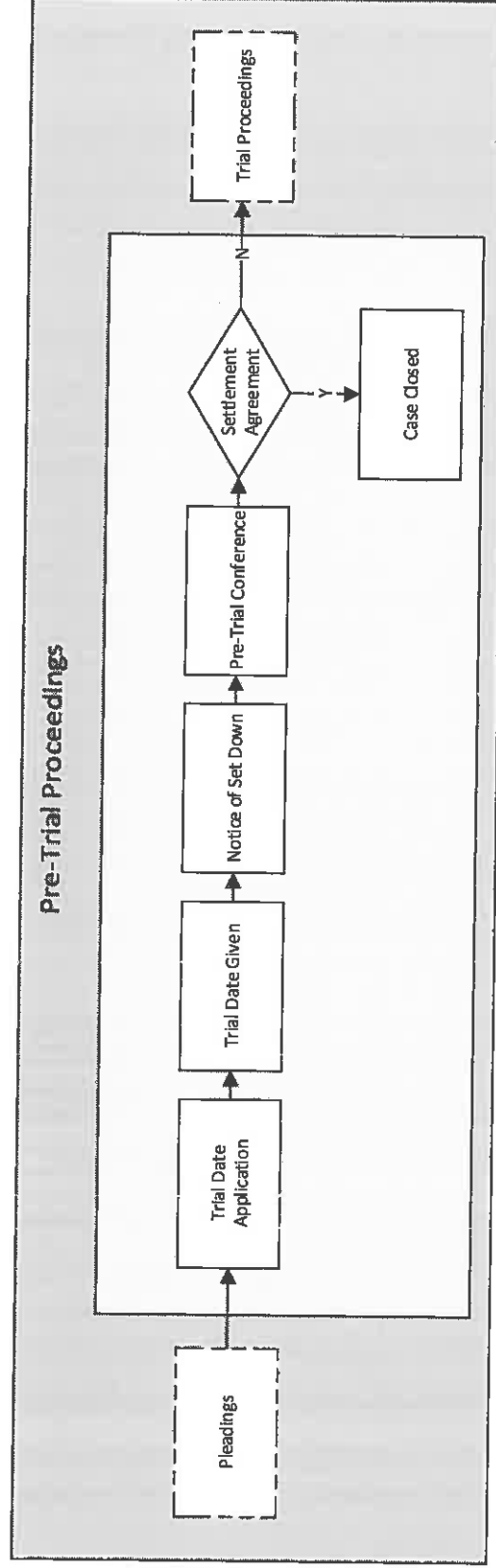
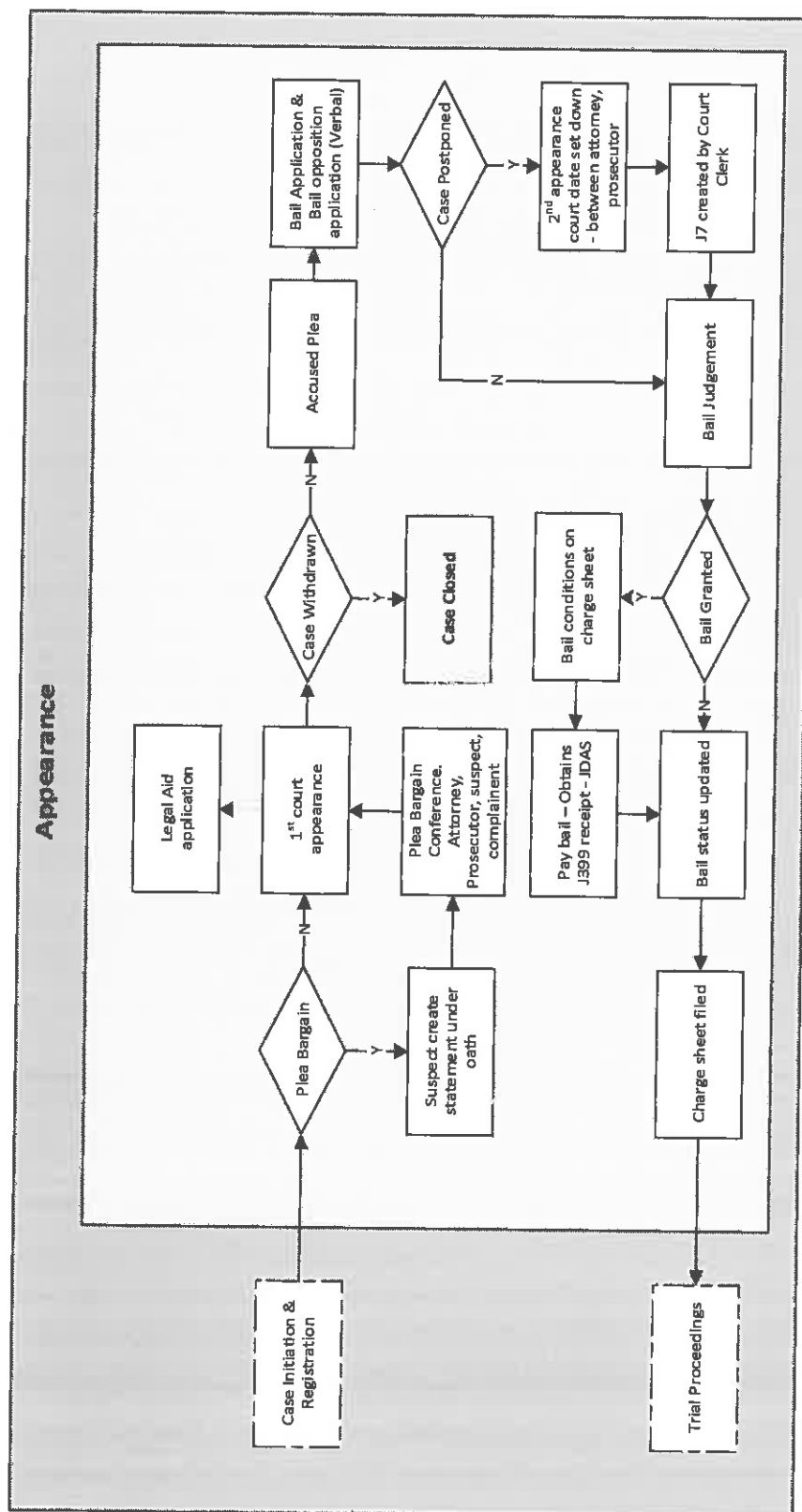


Figure 4: Civil Pre-Trial Proceedings



**Business Requirements Specification: e-Filing**  
Electronic Court Filing System – Phase 1 (Plan and Analyse)



**Figure 5: Criminal 1st Court Appearance**



**Business Requirements Specification: e-Filing**  
**Electronic Court Filing System – Phase 1 (Plan and Analyse)**

**1.5.2. Civil Business Requirements Specifications**

Requirement Description	Justice Process	Further Details & Comments
The Citizens or Litigants should be able to upload all required documentation not submitted during the pleadings so the case file documentation required for the trial / hearing	Civil	
Citizens or Litigants should be able to complete online templates, submit their own document or create online a subpoena so that they have the correct documentation format and information needed by the court to issue a subpoena	Civil	



**Business Requirements Specification: e-Filing**  
Electronic Court Filing System – Phase 1 (Plan and Analyse)

**1.5.3. Criminal Business Requirement Specifications**

Requirement Description	Justice Process	Further Details & Comments
The Prosecutor should be able to fill out the plea bargain template agreement online with the accused's details and the outcomes from the plea bargain exchange	Civil	
The Investigating Officer, Attorney-General, Commissioned Police Officer or Public Prosecutor should be able to select to withdraw the case so that the case documentation can be archived	Civil	
The Prosecutor should be able to close the case based on the withdrawal so that the case status can be updated and the documents can be archived	Civil	
The Prosecutor should be able to upload any video/voice recordings and minutes from the plea bargaining meetings/exchanges to serve as proof for the plea bargain agreement	Civil	
The Prosecutor should be able to select the type of document I am submitting and so that it is placed in the correct folder hierarchy for tracking purposes	Civil	
The Attorney-General, Public Prosecutor, Commissioned Police Officer should be able to submit an application for a warrant of arrest online	Civil	



**Business Requirements Specification: e-Filing**  
Electronic Court Filing System – Phase 1 (Plan and Analyse)

Requirement Description	Justice Process	Further Details & Comments
The Judge / Magistrate or Clerk should be able to select to postpone the case, so that the system can automatically generate a new case date taking into account the availability of the trial procession Judge/ Magistrate , Attorney and Prosecutor	Civil	
The Court Clerk should be able to capture all the outcomes from the 1st appearance directly onto the system, which includes an upload option for the Digital Court Recordings	Civil	
The Court Clerk should be able to capture all bail information (bail conditions, bail amount) so that the payment clerk h real-time view of incoming bail payments	Civil	
The Court Clerk should be able to automatically generate the J7 document based on the bail application outcome and notify the relevant correctional services facility	Civil	
The Bail Payment Clerk Should be able to automatically generate a Bail Receipt (J399) with the suspects details as well as the case details and bail information	Civil	



## 1.6. Trial / Hearing Proceedings

### 1.6.1. Process activities

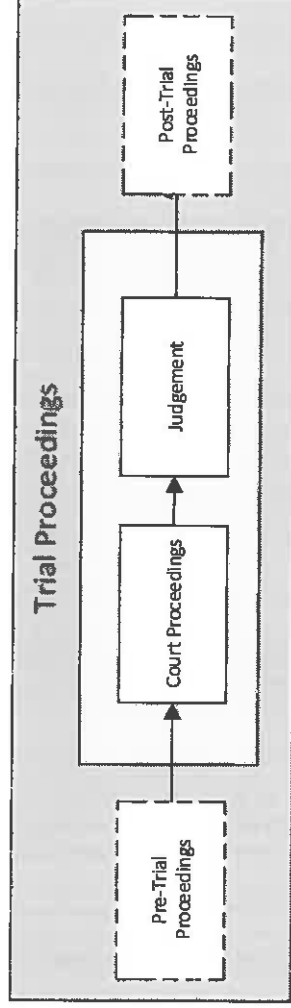
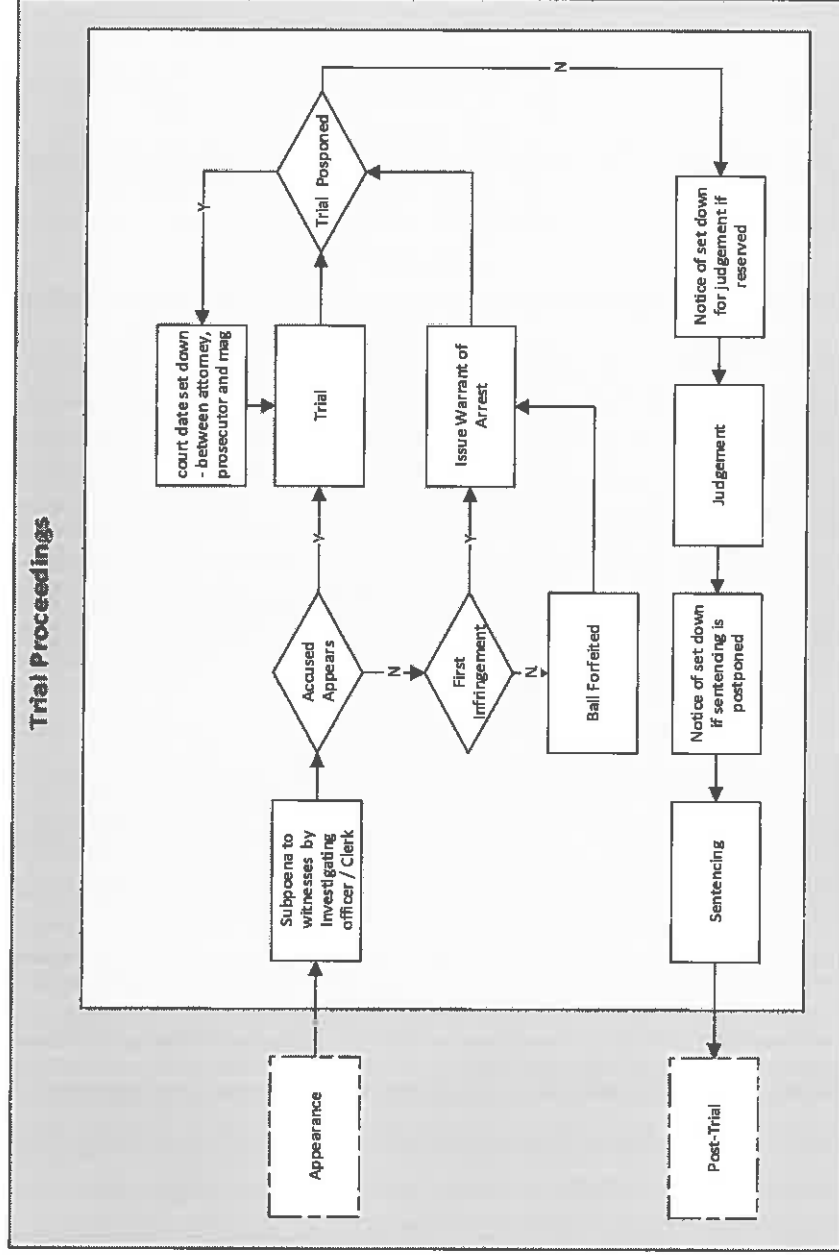


Figure 6: Trial / Hearing Proceedings



**Business Requirements Specification: e-Filing**  
**Electronic Court Filing System – Phase 1 (Plan and Analyse)**



**Figure 7: Criminal Trial Proceedings**



**Business Requirements Specification: e-Filing**  
Electronic Court Filing System – Phase 1 (Plan and Analyse)

**1.6.2. Civil Business Requirements Specifications**

Requirement Description	Justice Process	Further Details & Comments
The Judge should be able to easily search through case documentation, jump to pages and find words in the documents so that they can keep track of details when presented in court	Civil	
The Judge should be able to digitally endorse agreements and draft orders between parties made out of court so that a court order can be easily generated and sent to all relevant parties	Civil	
The Citizens or Litigants should be able to submit documentation to court during the proceedings and when necessary so that any documentation the court may not have can easily be given to the judge while keeping the case file up to date	Civil	
The Judge should be able to compile and submit my judgement via the web portal so that they do not need to write it out in isolation	Civil	
The Clerk or Typist should be able to compile and submit the court order through the portal so that the parties can be informed immediately of the order	Civil	
The Judge should be able to digitally sign the court order captured in the system so that the parties can be informed immediately of the order	Civil	
The Registrar should be able to upload digital sound and / or video recordings and other court proceeding evidence so that it can be kept together with the case file in the event it is needed later	Civil	





**Business Requirements Specification: e-Filing**  
Electronic Court Filing System – Phase 1 (Plan and Analyse)

**1.6.3. Criminal Business Requirements Specifications**

Requirement Description	Justice Process	Further Details & Comments
The Investigating Officer or Litigants should be able to create my subpoena online from a template with prepopulated data so that the relevant witnesses can be notified of court proceedings	Criminal	
The Clerk should be able to login and view all pending subpoena applications so that they can attach my digital signature	Criminal	
The Judge / Magistrate or Clerk should be able to select to postpone the case, judgement or sentencing so that the system can automatically generate a new case date taking into account the availability of the trial Judge/Mag, attorney and Prosecutor	Criminal	
The Judge / Magistrate must have the option of terminating the case through the portal so that the case is closed and the case file is archived	Criminal	
The Judge / Magistrate should be able to complete an online template outlining the court case proceedings and any inconsistencies that have occurred	Criminal	
The Clerk should be able to capture all the outcomes from the trial directly onto the system, which includes an upload option for the Digital Court Recordings	Criminal	
The Clerk should be able to automatically generate the SAPS69 document so that the relevant parties are notified timeously	Criminal	
The Correctional Services representative, should be able to login to the portal and have a view of incoming criminals	Criminal	



**Business Requirements Specification: e-Filing**  
Electronic Court Filing System – Phase 1 (Plan and Analyze)

Requirement Description	Justice Process	Further Details & Comments
and access their files so that they can process the criminal accordingly		



## 1.7. Post-Trial / Hearing Proceedings

### 1.7.1. Process activities

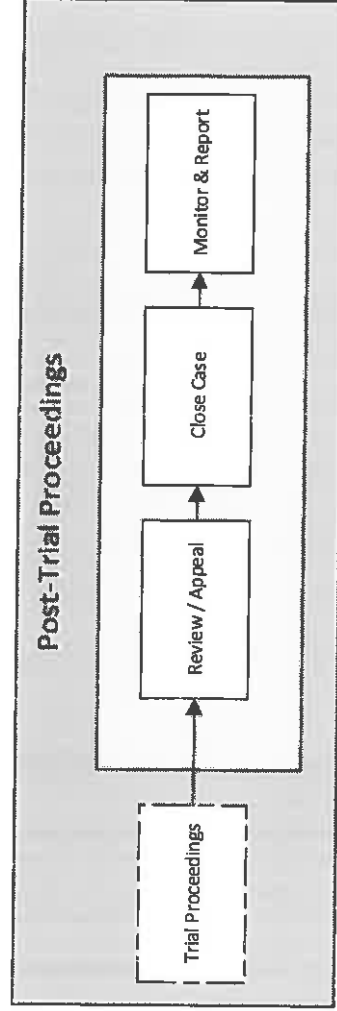


Figure 8: Post-Trial / Hearing Proceedings



**Business Requirements Specification: e-Filing**  
Electronic Court Filing System – Phase 1 (Plan and Analyse)

**1.7.2. Civil Business Requirements Specification**

Requirement Description	Justice Process	Further Details & Comments
Citizens or Litigants whom has lost a case Should be able to submit a leave to appeal application online	Criminal	
Registrar Should be able to restrict certain case documentation from public online viewing so that sensitive information is not made public	Criminal	

**1.7.3. Criminal Business Requirements Specifications**

No	Requirement Description	Justice Process	Further Details & Comments
	The Convict or Litigants should be able to submit an appeal application online using a template with prepopulated information	Criminal	
	The Convict or Litigants who has failed to meet submission deadlines, should be able to submit a letter of condonation through the portal using the template with prepopulated information	Criminal	
	The Clerk must have a view of all deferred fines owing to court, so that they know how much money is being owed to court and when to expect the payment	Criminal	



**Business Requirements Specification: e-Filing**  
Electronic Court Filing System – Phase 1 (Plan and Analyse)

No	Requirement Description	Justice Process	Further Details & Comments
	The Clerk should be able to login and have a of all deferred fine defaulters so that they can initiate proceedings to recover the money	Criminal	