



INVITATION TO BID

**BID NIO:
OCJ2017/01**

**BID DESCRIPTION:
COMPREHENSIVE EMPLOYEE HEALTH AND WELLNESS SERVICES FOR A PERIOD OF THIRTY SIX (36)
MONTHS**

**COMPULSORY BRIEFING SESSION DATE: 26 MAY 2017 AT 11:00 AM
VENUE:**

CANTEEN AREA, OFFICE OF THE CHIEF JUSTICE, 188, 14TH ROAD, NOORDWYK, MIDRAND

CLOSING DATE: 09 JUNE 2017 AT 11:00 AM

DELIVERY ADDRESS

**DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS): THE OFFICE OF THE CHIEF JUSTICE, 188, 14TH
ROAD, NOORDWYK, MIDRAND**



SBD 1
INVITATION TO BID

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

BID NUMBER: OCJ2017/01

CLOSING DATE: 09 JUNE 2017 CLOSING TIME: 11:00AM

DESCRIPTION: COMPREHENSIVE EMPLOYEE HEALTH AND WELLNESS SERVICES FOR A PERIOD OF THIRTY SIX (36) MONTHS

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)
THE 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 CODE.....NUMBER.....

CELLPHONE NUMBER

FACSIMILE NUMBER CODENUMBER.....

E-MAIL ADDRESS

VAT REGISTRATION 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

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: BidEnquiries@judiciary.org.za

ANY ENQUIRIES REGARDING TECHNICAL INFORMATION MAY BE DIRECTED TO:

Contact Person: Ms D Botha

Tel: :010 493 2630

E-mail address: DBotha@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.
- 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.



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) |
|----------|----------|-------------|---|
|----------|----------|-------------|---|

| | | |
|---|--|-----------------------------------|
| - | 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 state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her 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, shareholder²): _____
 - 2.4 Company Registration Number: _____
 - 2.5 Tax Reference Number: _____
 - 2.6 VAT Registration Number: _____
 - 2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

¹"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.

²"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:

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.

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

YES/NO

2.10.1 If so, furnish particulars.

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

YES/NO

2.11.1 If so, furnish particulars:



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 2017

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

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

1. GENERAL CONDITIONS

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

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

1.2

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

1.3 Points for this bid shall be awarded for:

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

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

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

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

1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated

or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

2. DEFINITIONS

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

3. POINTS AWARDED FOR PRICE

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

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

80/20

or

90/10

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

Where

P_s = Points scored for price of bid under consideration

P_t = Price of bid under consideration

P_{\min} = Price of lowest acceptable bid

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

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

| B-BBEE Status Level of Contributor | Number of points (90/10 system) | Number of points (80/20 system) |
|------------------------------------|---------------------------------|---------------------------------|
| 1 | 10 | 20 |
| 2 | 9 | 18 |
| 3 | 6 | 14 |
| 4 | 5 | 12 |
| 5 | 4 | 8 |
| 6 | 3 | 6 |
| 7 | 2 | 4 |
| 8 | 1 | 2 |
| Non-compliant contributor | 0 | 0 |

5. BID DECLARATION

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

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

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

7. SUB-CONTRACTING

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

(Tick applicable box)

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

- 7.1.1 If yes, indicate:

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

(Tick applicable box)

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

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

| Designated Group: An EME or QSE which is at least 51% owned by: | EME √ | QSE √ |
|---|--------------------------|--------------------------|
| Black people | <input type="checkbox"/> | <input type="checkbox"/> |
| Black people who are youth | <input type="checkbox"/> | <input type="checkbox"/> |

| | | |
|---|--|--|
| Black people who are women | | |
| Black people with disabilities | | |
| Black people living in rural or underdeveloped areas or townships | | |
| Cooperative owned by black people | | |
| Black people who are military veterans | | |
| OR | | |
| Any EME | | |
| Any QSE | | |

8. DECLARATION WITH REGARD TO COMPANY/FIRM

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

8.2 VAT registration
number:.....

8.3 Company registration
number:.....

8.4 TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
☐ One person business/sole propriety
☐ Close corporation
☐ Company
☐ (Pty) Limited
[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

8.6 COMPANY CLASSIFICATION

- ☐ Manufacturer
☐ Supplier
☐ Professional service provider
☐ Other service providers, e.g. transporter, etc.
[TICK APPLICABLE BOX]

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

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

- i) The information furnished is true and correct;
ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;

- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution.

WITNESSES

1.

2.

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

DATE:

ADDRESS

.....

.....



SBD 8

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? (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). The Database of Restricted Suppliers now resides on the National Treasury's website(www.treasury.gov.za) 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)? The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page. | 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 bids¹ 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).² 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:

¹ Includes price quotations, advertised competitive bids, limited bids and proposals.

² 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 consortium³ 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.

³ 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

GOVERNMENT PROCUREMENT

GENERAL CONDITIONS OF CONTRACT

NOTES

The purpose of this document is to:

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

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

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

TABLE OF CLAUSES

| | |
|-----|---|
| 1. | Definitions |
| 2. | Application |
| 3. | General |
| 4. | Standards |
| 5. | Use of contract documents and information; inspection |
| 6. | Patent rights |
| 7. | Performance security |
| 8. | Inspections, tests and analysis |
| 9. | Packing |
| 10. | Delivery and documents |
| 11. | Insurance |
| 12. | Transportation |
| 13. | Incidental services |
| 14. | Spare parts |
| 15. | Warranty |
| 16. | Payment |
| 17. | Prices |
| 18. | Contract amendments |
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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.

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| 2. Application | <p>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.</p> <p>2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.</p> <p>2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.</p> |
| 3. General | <p>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.</p> <p>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</p> |
| 4. Standards | <p>4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.</p> |
| 5. Use of contract documents and information; inspection. | <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> |
| 6. Patent rights | <p>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.</p> |
| 7. Performance security | <p>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.</p> |

- 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.

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| 16. Payment | <p>16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.</p> <p>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.</p> <p>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.</p> <p>16.4 Payment will be made in Rand unless otherwise stipulated in SCC.</p> |
| 17. Prices | <p>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.</p> |
| 18. Contract amendments | <p>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.</p> |
| 19. Assignment | <p>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.</p> |
| 20. Subcontracts | <p>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.</p> |
| 21. Delays in the supplier's performance | <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> |

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

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| | | (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment. |
| 29. Governing language | 29.1 | The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English. |
| 30. Applicable law | 30.1 | The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC. |
| 31. Notices | 31.1 | Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice |
| | 31.2 | The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice. |
| 32. Taxes and duties | 32.1 | A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country. |
| | 32.2 | A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser. |
| | 32.3 | No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services. |
| 33. National Industrial Participation Programme (NIP) | 33.1 | The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation. |



OFFICE OF THE CHIEF JUSTICE
REPUBLIC OF SOUTH AFRICA

TERMS OF REFERENCE

**FOR COMPREHENSIVE EMPLOYEE HEALTH AND WELLNESS SERVICES FOR A
PERIOD OF THIRTY SIX (36) MONTHS**

TERMS OF REFERENCE FOR COMPREHENSIVE EMPLOYEE HEALTH AND WELLNESS SERVICES FOR A PERIOD OF THIRTY (36) MONTHS

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TERMS OF REFERENCE FOR COMPREHENSIVE EMPLOYEE HEALTH AND WELLNESS SERVICES FOR A PERIOD OF THIRTY (36) MONTHS

ABBREVIATIONS

| ABBREVIATIONS | DESCRIPTION |
|----------------------|---|
| BBBEE | Broad Based Black Economic Empowerment |
| CV | Curriculum Vitae |
| CISD | Critical Incident Stress Debriefing |
| DPT | Department |
| EWP | Employee Wellness Programme |
| OCJ | Office of the Chief Justice |
| HCT | HIV Counselling and Testing |
| HRP | Human Resource Practice |
| HRA | Health Risk Assessment |
| ICT | Information and Communication Technology |
| LR | Labour Relations |
| PERSAL | Personnel and Salary System |
| PFMA | Public Finance Management Act of 1999 |
| RFP | Request for proposals |
| TOR | Terms of Reference |
| VAT | Value Added Tax |
| SANAS | South African National Accreditation System |

DEFINITIONS

| TERM | DEFINITIONS |
|------------------|--|
| Psycho-Social | The Interrelation of Social Factors and Individual thought and Behaviour |
| Immediate Family | Spouse, Children and Family Members residing in the same household as the Employee |

TERMS OF REFERENCE FOR COMPREHENSIVE EMPLOYEE HEALTH AND WELLNESS SERVICES FOR A PERIOD OF THIRTY (36) MONTHS

1. INTRODUCTION

- 1.1. The Office of the Chief Justice (OCJ) intends procuring the services of a reputable Service Provider to provide an Employee Wellness Programme to address issues of employee health and wellness in the workplace in particular the psychosocial aspect of wellbeing with the focus to promote employee wellness and improve productivity.
- 1.2. The health and wellness services entails a comprehensive Employee Health and Wellness Programme service for OCJ employees and their immediate family members. For this purpose, immediate family member is defined as a spouse, children and family members residing in the same household as the employee.
- 1.3. The OCJ believes that sustained peak performance requires a truly engaged and healthy employee. The OCJ Employee Health and Wellness Programme deals with a broad range of occupational health, physical, spiritual, psychological and socio-economic problems that affect the employee's well-being, behaviour and performance capability.
- 1.4. The OCJ aims to solicit proposals from potential bidder(s) for the provision of Employee Health and Wellness related services. This document details and incorporates, as far as possible, the tasks and responsibilities of the potential successful bidder required by the OCJ.
- 1.5. This Request for Proposal (RFP) does not constitute an offer to do business with the OCJ, but merely serves as an invitation to potential bidder(s) to facilitate a requirements-based decision process.
- 1.6. The OCJ invites suitably qualified and experienced Service Providers to submit proposals for the implementation and management of an outsourced Employee Wellness Program (EWP).

2. BACKGROUND

- 2.1. The OCJ is a government department that draws its mandate from the Constitution and the Public Service Act, 1994.

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- 2.2. The Employee Health and Wellness Strategic Framework for the Public Service (2008) recognizes the need for workplaces to develop a Wellness Management programme that is largely preventative in nature focusing on both primary (avoid the risk or condition) and secondary (minimize the effects of the condition) prevention when dealing with psychosocial problems, organizational climate assessments of hostile physical and psychosocial working environments.
- 2.3. The OCJ Wellness Management Policy outlines the following objectives to be met when implementing a wellness management programme:
- 2.3.1. Meet wellness needs of OCJ employees through preventative and curative measures.
- 2.3.2. Promote the physical, social, emotional, occupational, spiritual, financial, and intellectual wellness of individuals.
- 2.3.3. Create an organizational climate and culture that is conducive to wellness and comprehensive identification of psycho-social health risks.
- 2.3.4. Promote work-life balance through flexible policies in the workplace to accommodate work, personal and family needs
- 2.3.5. Employee wellness is considered from both the personal and workplace dimensions which influence the overall performance of employees. Individual wellness is viewed as the promotion of the physical, social, emotional, occupational, spiritual, financial, and intellectual wellness of individuals. The employee wellness is attained by creating an organizational climate and culture that is conducive to wellness and the comprehensive identification of psycho-social health risks.
- 2.4. To give effect to the provisions of the OCJ Wellness Management Policy, the Department seeks to put in place an Employee Wellness Programme that seeks to address the psychosocial aspect of the wellbeing of its employees and immediate family members with the goal of improving productivity in the workplace.
- 2.5. Due to internal capacity constraints to deliver a complete Employee Wellness Programme, the

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Department seeks to outsource the function to a reputable registered Service Provider to implement the programme. The outsourced service is envisaged to provide a confidential referral service with certified employee assistance practitioners who are registered and experienced specialist on a range of issues, such as counselling on social, financial matters, as well as health management issues.

2.6. The Purpose of EWP:

2.6.1. Adopt a holistic approach to employee health risk management, by seeking synergies with wellness and disease management programmes as well as rehabilitation and empowerment programmes in conjunction with the Departmental Employee Health and Wellness programme.

2.6.2. Reduce employee absenteeism due to psychosocial challenges.

2.6.3. Assist individual staff members and their immediate families in overcoming personal and work related problems that are likely to affect their performance.

2.6.4. Assist the Department to create a caring, healthy and safe working environment in which individual staff members feel valued.

2.6.5. Improve organizational performance by ensuring that staff members have the necessary support system in place which will enable them to reach their maximum potential and perform optimally.

2.6.6. Provide a professional EWP service which will respond with immediacy to the psycho-social needs of employees.

2.6.7. Support the department to manage health risk issues and involve the various stakeholders in the health risk management processes and structures.

2.7. The Envisaged Outsourced EWP Model:

2.7.1. Appointment of a registered Service Provider by the OCJ through a competitive bidding process

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that is concluded with a Service Level Agreement entered into between the OCJ and the successful Service Provider. Employees and their immediate family members having 24 hour seven days a week service, access to telephonic counselling and referral service.

2.7.2. The preferred costing model will be based on a combination of costing services. "A per capita payment model for telephonic counseling and fee for service basis for the other services defined in the Service Level Agreement".

2.8 PRINCIPLES:

The Employee Wellness Programme is underpinned by the following principles:

- a. Employees utilizing the wellness programme are assured of confidentiality, except in cases of risk to self and others or in terms of legislation;
- b. Only registered professionals will be allowed to provide therapeutic interventions;
- c. As far as possible the generic principles of respect for autonomy, non-maleficence, beneficence, and distributive justice will guide the actions of all professionals providing the counselling service;
- d. The programme focuses on all levels of employment and responds to the needs of designated employees such as people with disabilities and women maintaining a performance focus;
- e. Coherence of models: the service delivery models should offer the same package of professional service to the OCJ employees and their immediate family members; and
- f. Voluntary Participation: Employees and their immediate family members' participation in the programme is voluntary and consensual.

3. CONTRACT OBJECTIVES

3.1. Assist individual staff members in overcoming personal and work related problems that are

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likely to affect their performance.

- 3.2. Support employees' immediate family members to cope with psychosocial challenges.
- 3.3. Create a caring and healthy working environment in which individual staff members feel valued.
- 3.4. Improve organizational performance by ensuring that staff members have the necessary support system in place which will enable them to reach their maximum potential and perform optimally.
- 3.5. Providing a professional EWP service which will respond with immediacy to the psychosocial needs of employees on a 24 hour seven days a week service.
- 3.6. Managing health issues which pose a risk to the Department.
- 3.7. Promoting and providing a healthy and safe work environment.

4. NATURE OF SERVICES REQUIRED

4.1. Scope and Extent of Work

The EHW services is required for provision of health and wellness services to all the employees of the OCJ and their immediate family members. The department currently has 1901 employees with a projected growth of up to 1950 by 2020. Whilst the department has offices with staff members in all provinces, the service is expected to be accessible by all employees irrespective of their geographical area where they may be due to official business.

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Break down per office and court as of 11 May 2017

| NUMBER OF EMPLOYEES PER PROVINCE | | NUMBER OF EMPLOYEES PER COURT/OFFICE | |
|----------------------------------|-------------|---|-------------|
| Eastern cape | 211 | EC Local Division (Bisho) | 37 |
| | | EC provincial service centre (East London) | 16 |
| | | EC Division (Grahamstown) | 51 |
| | | Labour and Labour Appeals court Port Elizabeth | 10 |
| | | EC Local Division (Mthatha) Umtata | 56 |
| | | EC Local Division (Port Elizabeth) | 41 |
| | | | 71 |
| Free State | 140 | Free State Division (Bloemfontein) | |
| | | Free State provincial service centre (Bloemfontein) | 15 |
| | | Supreme Court of Appeal | 54 |
| | | | 73 |
| Gauteng | 911 | Constitutional Court | |
| | | GP Provincial Service Centre (Johannesburg) | 27 |
| | | Gauteng Local Division (Johannesburg) | 277 |
| | | Labour and Labour Appeals Court JHB | 79 |
| | | Land Claims Court | 27 |
| | | Gauteng Division (Pretoria) | 231 |
| | | National Office (Midrand) | 197 |
| | | | 102 |
| Kwazulu-Natal | 211 | KwaZulu-Natal Local Division (Durban) | |
| | | KwaZulu-Natal Provincial Service Centre (Durban) | 18 |
| | | Labour and Labour Appeals Court Durban | 12 |
| | | KwaZulu-Natal Division (Pietermaritzburg) | 79 |
| Limpopo | 108 | Limpopo Provincial Service Centre (Polokwane) | 14 |
| | | Limpopo Division Polokwane | 61 |
| | | Limpopo Local Division Thohoyandou | 33 |
| | | | |
| Mpumalanga | 10 | Mpumalanga Provincial Service Centre (Nelspruit) | 3 |
| | | Mpumalanga Division (Nelspruit and Middelburg) | 7 |
| Northern Cape | 63 | Northern Cape Division (Kimberley) | 50 |
| | | Northern Cape Provincial Service Centre (Kimberley) | 13 |
| North West | 67 | North West Division (Mmabatho) | 51 |
| | | North West Provincial Service Centre (Mafikeng) | 16 |
| Western Cape | 180 | Western Cape Division (Cape Town) | 156 |
| | | Labour and Labour Appeals Court Cape Town | 11 |
| | | Western Cape Provincial Service Centre (Cape Town) | 13 |
| TOTAL | 1901 | TOTAL | 1901 |

TERMS OF REFERENCE FOR COMPREHENSIVE EMPLOYEE HEALTH AND WELLNESS SERVICES FOR A PERIOD OF THIRTY (36) MONTHS

Scope and extent of work (continues)

| Counseling Services and Trauma Debriefing | Awareness Education Training | Health, Wellness & Risk Management | Managerial Consulting | Advice and information on Lifestyle Management issues |
|---|--|--|--|--|
| Fee for service | Fee for service | Fee for service | Fee for service | Fee for service |
| 1) Face-to-face (CISD). 2) Group Counselling (CISD). | 1) Awareness sessions. 2) Employee education sessions. 3) Team interventions which would include assessment and diagnosis and actual intervention. | Support to Manage health risks. 1.1) Behavioural risk assessments. 1.2) Assessment for reasonable accommodation. 1.3) HRAs. 1.4) Assist in management of chronic diseases to support the incapacity management programme. 1.5) Support process for employees with psychiatric conditions/mental illnesses. 1.6) Wellness days. 1.7) HCT 1.8) Assisting in managing diet, nutrition, exercise, weight management and general lifestyle choices. | 1) Coaching for executives and managers. 2) Managerial training. 3) Support interventions for managers | 1) Financial management. 2) Legal advisory services on employees personal issues. 3) Pre-retirement programme. 4) Child care 5) Elderly care |
| Per capita payment | | | | |
| 1) Telephone Counselling | | | | |

TERMS OF REFERENCE FOR COMPREHENSIVE EMPLOYEE HEALTH AND WELLNESS SERVICES FOR A PERIOD OF THIRTY (36) MONTHS

4.2. Services to be Provided

The appointed Service Provider will be contracted for a period of 36 months. The Service Provider is expected to design, implement and manage the Employee Wellness Programme with the following deliverables:

4.2.1. Suitable Counselling and Trauma Debriefing System

- i) Face to Face – Provide short term intervention services with a maximum of six (6) sessions per problem;
- ii) Group Counselling - Provide once-off session; and
- iii) Telephonic Counselling - provide a dedicated 24 hour call centre (toll-free) counselling line for employees with their dependents covering information, therapeutic assistance and support on extensive range of psychological, social and wellbeing related issues in 11 official languages.

Provide an all inclusive counselling referral system and trauma debriefing sessions to deal with areas such as:

a. Stress, Anxiety and Depression

- i) Anxiety, depression and feelings of being overwhelmed;
- ii) Managing stress and
- iii) Poor work performance.

b. Marital, Divorce and Relationships

- i) Domestic violence;
- ii) Personality conflicts at home or on the job;
- iii) Learning to be more assertive or ways to improve self- esteem;
- iv) Positive communication skills; and
- v) Marital counselling and adjusting to a divorce or separation.

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c. Family and Parenting Concern

- i) Children with behavioural problems; and
- ii) Eldercare.

d. Alcohol and other Drug Dependencies

- i) Drugs, alcohol abuse and recognising a substance abuse problem;
- ii) Support when living with a person who abuses alcohol and drugs; and
- iii) Gambling problem.

e. Financial Problems

- i) Money management and financial problems;
- ii) Bereavement and other losses; and
- iii) Dealing with a loss of a loved one.

f. Dealing with Communicable Diseases and Illnesses.

4.2.2 Health Risk Assessment

- i) Health risk assessments which will form part of wellness days.
- ii) HIV counselling and testing (HCT) to be conducted as a component of wellness days within an integrated model or as campaigns.
- iii) Prepare the plan of work to undertake the health risk assessment which entails activities, timelines, approaches, deliverables and identify the specific needs and requirements of all stakeholders through data gathering and validation techniques, a cost-benefit analysis and other important considerations.

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4.2.3 Training and Awareness

- i) These services would consist of briefing, awareness, education and training sessions.
- ii) Awareness sessions refer to the conducting of awareness on a variety of relevant topics and would be limited to one to two hours.
- iii) An education or training session refers to training on any identified topic which is longer than two hours.
- iv) Conduct awareness sessions to group of employees, managers and supervisors on identification and referral of troubled employees.
- v) Service must also include programs on lifestyle management, health risk assessments and wellness days.

4.3. Access to the Service

The EWP service will be open to all employees and members of their immediate families, and available and accessible through:

4.3.1. Self-referral where the employee seeks help on their own;

4.3.2. Informal referral where a supervisor, friend or co-worker recommends EWP;

4.3.3. Formal referral based on job performance and recommendation of supervisor; and

4.3.4. Employees will be entitled to a maximum of six (6) sessions.

The Service Provider is required to as far as possible, utilize practitioners who are available in all provinces in close proximity of the relevant OCJ offices.

4.4. Service Level Reporting

4.4.1. The Project Manager for the Service Provider will be expected to work very closely with the EHW Manager and the Employee Health and Wellness Committee to engage formally through meetings every quarter in preparation for reporting to management meetings through standard

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reporting template. Reporting must be per site, per type of service and type of problem as well as summarized report.

4.4.2. Provide monthly, quarterly and annual reports per province, division and branch office. The confidentiality of employee information must be taken into consideration. Reports must reflect utilisation and identified trends.

4.4.3. The Service Provider shall implement the necessary measures, monitoring tools and procedures required in measuring and reporting the Service Provider's performance of services against the applicable performance standards on a quarterly basis. Such measurement and monitoring shall permit reporting at a level of detail sufficient to verify compliance with the performance standards, and shall be subject to audit by the OCJ and/or its appointed contract manager or auditors. The Service Provider shall provide the OCJ with the information and access to such tools and procedures upon request, for purposes of verification. Further, the Service Provider shall, on request of the OCJ, provide a duplicate of any database used to capture and report on service levels so that appropriate provisions relating to the provision of service reports and the time periods relating thereto will be incorporated into any agreement concluded project.

4.4.4. Reports must be made available in hard copy accompanied by an electronic version.

(a) Identify and/or review of the key constraints or challenges facing the implementation of the wellness programme.

(b) Submit comprehensive statistical report on findings with clear recommendations.

4.4.5. The ICT Infrastructure

The Service Provider is required to establish and maintain a database for purposes of monitoring and tracking case flow and work progress.

4.4.6. Document Management

For this purpose, document management refers to a document management system to manage documents and or their contents in various formats according to business rules through its life cycle from inception to disposal.

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(a) Document Management Enablers

Noting that the Public Service's electronic infrastructures are diverse in nature. It is therefore expected that the Service Provider should accept and where necessary has the following document management enablers intact to facilitate the process:

- i) Courier services;
- ii) E-mail services;
- iii) Fax facilities; and
- iv) Web-based facilities

(b) Electronic Document Management

Electronic document management involves the hardware and software supporting the document management process. It is required from the Service Provider to maintain an electronic document management system, since it will be necessary to maintain the database as required, as well as for extracting reports for reporting purposes.

i) Back-Up and Archiving

Reporting and analysis will be dependent on data integrity and quality. It is therefore required that the Service Provider put adequate systems in place to preserve data and prevent data loss.

ii) Data

- (a) Employee and organizational data that will be under the control of the Service Provider shall remain the property of the OCJ and the individual, respectively. The Service Provider shall not obtain any rights in such data.
- (b) The data in possession of the Service Provider or to which the Service Provider may have access during its contract with the Public Service, may only strictly be used in the performance of the services required from the Service Provider.
- (c) It is required that the Service Provider shall take reasonable precaution to preserve the integrity of the data and to prevent corruption or loss of such data.

- (d) If the said data is corrupted, lost, or sufficiently degraded to be unusable, due to any act or omission by the Service Provider, it must without delay take all steps to restore or procure the restoration of the relevant data. If the corruption, loss or degradation of the data is due to the default of the Service Provider, it will be liable for all costs and damages associated with such corruption, loss, degradation and restoration.

iii) Data Security

- (a) Data related to the Employees and the organization may only be accessed by authorised employees or contracted persons of the OCJ, as well as the Service Provider.
- (b) It is therefore required that the Service Provider takes all steps to ensure that the Employee and the Organizational data is not accessible to any party who is not authorised by either the OCJ or the Service Provider to access such data.

iv) Audit

- (a) It is expected that the Service Provider shall apply normal auditing practices and that the applicable audit reports be submitted on a regular basis to the OCJ.
- (b) It is required that the Service Provider maintain at all times full and accurate records and audit trails, of all services provided and shall retain such records for the duration of its contract with the OCJ. The latter records remain the property of the OCJ and should be returned on termination of this contract.
- (c) The OCJ reserves the right to appoint either its own auditors or agents to audit the Service Provider if it suspects fraudulent practices or the application of incorrect procedures, poor services or the like.

4.5. Practitioners

4.5.1. Registration and Performance Standards

It will be required from the selected Service Provider to utilize a network of registered Practitioners, to ensure that the OCJ and its Employees enjoy quality and consistent services, it is furthermore required that the Service Provider ensures that the Practitioners utilised-

- i) Are qualified and duly licensed in terms of the applicable legislation;
- ii) Maintain specified performance standards; and
- iii) Have minimum of (three) 3 years work experience.

4.6. Help Desk or Call Centre

4.6.1. The Service Provider is required to set up and maintain a help desk or call centre function, to provide to practitioners and managers who are responsible for the processing and referral of cases.

- i) Assistance and advice with regard to counselling service and the referral of cases to registered practitioners; and
- ii) A mechanism through which they can make follow-ups with allocated practitioner.

4.6.2. The Service Provider must ensure that the help desk or call centre is staffed with trained personnel.

4.6.3. Where Practitioners are not available, a call back service should be implemented within 24 hours of initial contact by the Employee.

4.7. Project Management

The OCJ requires that the Service Provider actively participates in project management during the life of the agreement. The OCJ will establish the necessary project management mechanisms, inclusive of the reporting schedules and formats stipulated in the Service Level Agreement.

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4.8. Staffing

4.8.1. The Service Provider shall provide the personnel necessary to supply the services and service levels specified in the proposal and contained in the TOR and shall ensure that it possesses or has access to knowledge and sufficient expertise and staff to enable it to provide the required services in accordance with the agreed service levels.

4.8.2. Service Providers are to submit with their proposal the Curriculum Vitas and proof of registration with the applicable professional body, including that of senior and junior personnel to be allocated to the project.

4.9. Implementation

4.9.1. It is expected that the Service Provider shall acquaint itself with the organization and operation of the geographical area and the staff complements within the particular geographical area.

4.10. TRANSFER OF SKILLS

4.10.1 The Employee Health and Wellness Industry utilises skills not commonly available in the labour market and therefore we expect the successful service provider to impart skills to the department.

5. REPORTING ARRANGEMENTS, TIME-FRAMES AND ASSIGNMENT DELIVERABLES

5.1. The Service Provider must produce a comprehensive report to the OCJ on its trends, including interventions.

5.2. The quarterly written progress reports must be provided to the OCJ within fourteen (14) working days of the last day of the preceding quarter. For this purpose, the quarters that shall apply are January to March; April to June; July to September and October to December.

5.3. The Service Provider will report directly to the Project Manager in the OCJ, namely the Director: HRP, LR & EHW for the purposes of this project. The Service Provider must appoint a coordinator

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for the project who will be responsible for liaising with the OCJ for the duration of the project.

- 5.4. The OCJ will liaise with the Service Provider through the monthly meetings and by telephone or email as the need arises.
- 5.5. The project will be conducted within a period of thirty six (36) months starting from the date of signing of the contract with annual progress assessment report.
- 5.6. Over and above the high level work-plan that should be included in the bid proposal, the Service Provider shall within a maximum period of fifteen (15) days of being awarded the contract submit a detailed project plan outlining, the detailed work-plan with clear time frames, the methodology to be followed and the specific tasks to be performed.
- 5.7. The Service Provider must set up a project meeting to discuss the detailed work plan. Should the need arise to discuss possible concerns or changes to the detailed work plan thereafter; these will be discussed during the monthly meetings or a special meeting if necessary.
- 5.8. The Service Provider shall be required to submit one (1) project close-off and handover report a month before the contract ends.

6. APPOINTMENT, COMMENCEMENT AND DURATION OF ASSIGNMENT

- 6.1. The Service Provider will be expected to commence after the signing of the contract the duration of which will be no longer than thirty-six (36) months.

7. PAYMENT SCHEDULE

The OCJ shall within a period of 30 days of the receipt of the invoice and supporting documents make payments in terms of the contract.

8. GENERAL BID SUBMISSION CONDITIONS, INSTRUCTIONS AND INFORMATION

8.1. GENERAL REQUIREMENTS

8.1.1 The OCJ issues the Terms of Reference (ToR).

8.1.2 A compulsory briefing session will be held on the 26 May 2017 at 11h00.

Address: canteen area, Office of the Chief Justice, 188, 14th Road, Noordwyk, Midrand.

8.1.3 Service providers must sign the attendance register

8.1.4 Questions of clarity can be forwarded to the under-mentioned email address. These questions will be included in the above-mentioned briefing session. Questions that might arise after the briefing session will be dealt with strictly in writing. The Service Provider may forward the written questions for clarity related to the meaning or interpretation of any part of the terms of reference or any other aspect concerning the bid for by e-mail, by not later than midnight on the second working day after the compulsory briefing session. A global response to all questions will be provided to all Service Providers by e-mail within five (5) working days after the compulsory briefing session.

8.1.5 The e-mail address to which questions of clarity must be submitted is:

8.2. PACKAGING OF BID PROPOSAL

8.2.1. Service Providers must submit a complete response to the TOR to the OCJ, on the date and time specified in the SBD1.

8.2.2. The proposals must be valid for a period of three (3) months from the closing date of the bid.

8.2.3. This is a two-stage bidding process in which two separate proposals must be submitted: one for technical and another for price. Failure to submit two (2) separate proposals will result in the bid

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being disqualified.

8.2.4. The bidder shall place both the sealed Technical Proposal and Financial Proposal envelopes into an outer sealed envelope or packaged, and must be clearly marked as follows:

a) FUNCTIONALITY AND TECHNICAL PROPOSAL

- i) Mark envelope as follows: Bid No: OCJ 2017/01
Description: Appointment of a service provider to provide comprehensive Employee Health and Wellness Services for a period of thirty six (36) months.

Bid closing date and time: 09 June 2017 at 11h00.

Name and address of the bidder.

- ii) In this envelope, the bidder shall only address the technical aspects of the bid.
- iii) The Technical Proposal envelope must contain one original hard copy document.

b) FINANCIAL PROPOSAL

- i) Mark envelope as follows: Bid No: OCJ 2017/01
Description: Appointment of a service provider to provide comprehensive Employee Health and Wellness Services for a period of thirty six (36) months.

Bid closing date and time: 09 June 2017 at 11h00.

Name and address of the bidder.

- ii) In this envelope, the bidder shall provide the financial proposal.
- iii) The Financial Proposal envelope must contain one original hard copy document

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8.2.5. Economy of Proposal Preparation: Each proposal should be prepared simply and economically, providing a straightforward, concise description of the Service Provider's ability to meet the requirements of the TOR. Excessive proposal preparation will receive no extra evaluation credit. Emphasis should be on a clear, concise and factual proposal.

8.2.6. The bid proposals once submitted will become the property of the OCJ and shall not be returned to the Service Provider.

8.2.7. Receipt of all bid proposals will be recorded in a register.

9. LATE BIDS

9.1. Bids received late will not be considered. Bids received late shall where possible, be returned unopened to the Service Provider. Service Providers are therefore advised to ensure that bids are dispatched allowing enough time for any unforeseen events that may delay the delivery of the bid.

9.2. The official Telkom time (Dial 1026) will be used to verify the exact closing time.

9.3. Bids sent via any other means than hand delivery shall be deemed to be received on the date and time of arrival at the OCJ premises. Bids received at the physical address after the closing date and time of the bid, shall therefore be deemed to have been received late.

10. ACCEPTANCE OR REJECTION OF BIDS

The OCJ reserves the right not to award the bid.

11. PROPOSAL COST

Respondents shall bear all costs incurred in the process of responding to the TOR and in any subsequent negotiations.

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12. FORMAT OF TECHNICAL PROPOSAL

12.1. Service Providers must prepare and package their bid proposals and all related documents in accordance with the following framework:

- a) A Service Provider's proposal must be clear, factual and to the point.**
- b) Brochures and other marketing material as a response to the TOR will not be accepted.**
- c) All matters addressed in the TOR must be responded to.**
- d) Should a Service Provider wish to provide additional information, the said information must be appended to the specific section of the proposal to which it pertains and/or be referred to and included in a file of Annexures.**

12.2. The Technical Proposal must have the following:

- a) Service Provider Background and History as well as organizational track record.**
 - i) Date that the firm was founded.**
 - ii) A brief description of the historical background on the company or Service Provider, as well as the services provided by the Service Provider.**
 - iii) The Service Provider must provide a list of its past and current customers that is the name of the customer, the size, industry and products of these customers must be described as well as the types of services provided.**
 - iv) The date of service to each customer should be included as well as whether the Service Provider was the primary contractor or subcontractor. If a subcontractor, the Service Provider should list who the primary contractor was/is, and should provide information on the portion of service(s) that they were responsible for as subcontractors.**
 - v) Revenue history of the firm.**

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b) Service Provider Experience

- i) The Service Provider must provide a list of customers for whom projects of this nature and magnitude have been conducted. Reference letters of these customers, as well as their contact details must be included for reference purposes.
- ii) Notation as to which customers would be available for site visits and reference details.
- iii) The date of service to each customer must be stipulated.
- iv) Experience of counselling services rendered, which must include –
 - 1. The names and locations of Organizations/Companies in which counselling services have been offered.
 - 2. The size and head – count of staff members at the duration of contract of the Organizations/ Companies in which counselling services were offered.

c) Service Provider Capabilities

- i) Description of experience.
- ii) Description of current infrastructure, including, but not limited to staffing numbers.
- iii) Description of current employers who are clients of the Service Providers, including the number of employees of each of the employers.
- iv) Change management and project management skills.
- v) Change management practices.
- vi) Project management practices.
- vii) Formal methodologies employed.
- viii) The principal supervisory and management staff, including project partners, managers, other supervisors and specialists, who would be assigned to the project, should be identified and their role and level of involvement in the project must be included in the proposal. Further, details should be provided in respect of the

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qualifications, knowledge, experience and membership in professional organizations.

- ix) The Curriculum Vitae (CV) of each team member must be attached together with proof of membership of professional bodies.
- x) The proposal should state the size of the Service Provider, the location of the office from which the work on this project is to be performed and the number and nature of the professional staff to be employed in this project on a full-time basis and the number of the staff to be employed on a part-time basis.
- xi) The Service Provider must provide in its own words a clear description of its understanding of the scope deliverables of the project, touching on the risks and challenges it anticipates and mitigating strategies.
- xii) Summaries and a verbatim repeat from the terms of reference are not sufficient to express such an understanding.
- xiii) The Service Provider must provide a detailed exposition and motivation in relation to the approach, methodology and high level work plan that the Service Provider envisages for conducting the project within the required time frame.
- xiv) The Service Provider must clearly outline and demonstrate the methodology in respect of which it envisages delivering the deliverables as set out in the terms of reference.

d) General Issues

- i) Registration status of the Organization with EAPA – SA.

e) Declarations

It is required that the Service Provider submits with the proposals a declaration that–

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- i) the information provided is true and correct;
- ii) documentary proof regarding any issue related to the proposal will when required be submitted to the satisfaction of the OCJ; and
- iii) the outstanding or current contractual obligations and liabilities will not adversely impact the timely completion of the project.

The Service Provider must capture the above information in a separate letter, which must be attached to the proposal.

13. FORMAT OF FINANCIAL PROPOSAL

13.1. The sealed bid sheet should include the following:

13.1.1 Name of the Service Provider.

13.1.2 Only the price proposals of shortlisted Service Providers will be opened and considered.

13.1.3 Each proposal should be prepared simply and straightforwardly with concise description of the Service Provider's ability to meet the requirements of the ToR.

13.1.4 Project Cost Calculation (itemised), derived from the work content.

13.1.5 The OCJ undertakes to pay all fully substantiated invoices issued in terms of this appointment within thirty (30) days of receipt. No payment will be made if there is information outstanding, or if the report does not meet the quality requirements, and

13.2 Financial proposals must be submitted in South African Rand.

13.3 The capitation fee and fee for service model must be submitted in terms of the ToR.

13.4 The submitted proposals will become the property of the OCJ and shall not be returned.

14 EVALUATION PROCESS

The evaluation process comprises the following four (4) phases:

14.1 Phase I: Administrative Compliance

During this phase bid, compliance with administrative requirements stated in the standard bidding and the mandatory requirements listed below. Failing to do so will lead to the disqualification of the bid during the bid evaluation process

- i) All SBD Forms (1-9) must be completed fully and signed
- ii) Proposal signed by the designated responsible person.
- iii) Original and valid Tax clearance certificate included.
- iii) Attendance of compulsory briefing session.
- iv) List of customers for whom projects of this nature and magnitude have been conducted.
- v) Comprehensive CV's and certified copies of proof of current registration with the relevant Professional Council included of personnel to be used by Service Provider.
- vi) Technical and Price proposals to be submitted separately.
- vii) High Level implementation plan included.
- viii) Company history.
- ix) Compliance with sub-contracting rules defined in the SBD
- x) Past and Current client list.
- xi) At least three (3) references of clients for who projects of this nature and magnitude have been conducted.
- xii) Copies of identity documents of directors or shareholders of the company who will be responsible for this project.
- xiii) Registration with EAPA – SA
- xiv) Central Suppliers Database (CSD) report

14.2 Phase II: Functionality Evaluation

14.2.1 The BEC will conduct the technical evaluation.

14.2.2 Bids will be evaluated strictly according to the bid evaluation criteria stipulated in this section of the terms of reference. During this stage bidders' responses will be evaluated

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for functionality based on achieving a minimum score of 70 out of 100.

- 14.2.3 Bidders must, as part of their bid documents, submit supportive documentation for all technical requirements as indicated hereunder. The panel responsible for scoring the respective bids will evaluate and score all bids based on their submissions and the information provided.
- 14.2.4 Bidders will not rate themselves, but need to ensure that all information is supplied as required. The Bid Evaluation Committee (BEC) will evaluate and score all responsive bids and will verify all documents submitted by the bidders.
- 14.2.5 The panel members will individually evaluate the responses received against the following criteria as set out below:

Selection Criteria

0= very poor 1 = poor 2 = fair 3 = good 4 = very good 5 = excellent

- 14.2.6 Each panel member will rate each individual criterion on the score sheet using the above scoring guideline
- 14.2.7 The value scored for each criterion will be multiplied with the specified weighting for the relevant criterion to obtain the marks scored for each criterion. These marks will be added and expressed as a fraction of the best possible score for all criteria.

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| FUNCTIONALITY ASSESSMENT SCORING CRITERIA | | Weight | Score | Total |
|---|--|--------|-------|-------|
| 1. Technical Approach (30/100): | | 15 | | |
| Conceptual Grasp | | | | |
| i. Demonstrate a clear understanding of the business/corporate culture of a national department. | | | | |
| ii. Display creative origination within wellness programmes. | | 15 | | |
| (Rating score values for technical approach is allocated as follows: Unsatisfactory = 0; Partially unsatisfactory = 1 Satisfactory = 2; Good = 3; Very Good = 4 and Excellent =5. The maximum score value which can be awarded is 5 per technical approach category). | | | | |
| 2. Key Personnel (20/100): | | 20 | | |
| i. Demonstrated ability of the Individual/Professional Team to render the service and the expertise of key staff members. This must be supported with a submission of an organogram and CV's of team members i.e. Programme Manager and the team of experienced wellness programme personnel etc. | | | | |
| (Rating score values for key personnel is allocated as follows: Less than 1 year = 0; Over 1 year to 2 years = 1; Over 2 year to 3 years = 2; Over 3 year to 4 years = 3; Over 4 year to 5 years = 4 and 5 years and above = 5. The score value will be allocated per number of years' experience of the company. (The Evaluation Committee may, at its own discretion, consider the total years of experience of the combined team who will be working on the project. The maximum score value which can be awarded is 5) | | | | |
| 3. Successful completion of similar wellness programmes in the last five years (20/100): | | 20 | | |
| i. This must be supported by the submission of a list of all similar wellness programmes successfully completed, as well as letters of completion and/or references from current/previous clients. | | | | |
| (Rating score values for similar wellness programmes is allocated as follows: No similar programmes = 0; One similar programme completed = 1; Two similar programmes = 2; Three similar programmes = 3; Four similar programmes = 4 and Five and more similar programmes completed = 5. (The maximum score value which can be awarded is 5). | | | | |
| 4. Work Plan (40/100): | | 10 | | |
| i. This service provider is expected to provide an example of wellness programme's, including all activities, costs and timeframes outlining the various work flow items/tasks required for this project, and adherence to the deadline must be submitted | | | | |
| ii. This service provider is expected to demonstrate that they have the necessary infrastructure, tools and applicable tools to provide a dedicated 24 hour call centre (toll-free) counselling line in 11 official languages. | | 20 | | |
| (Rating score values for the work program is allocated as follows: No program = 0; Poor programme (insufficient information provided) = 1; Adequate programme (work items shown) = 2; Good program (all necessary work items shown) = 3; Very good program (all necessary and major work items shown) = 4 and Excellent program (all necessary work items shown, including links between tasks and additional information) = 5. (The maximum score value which can be awarded is 5). | | | | |
| TOTAL: | | 100 | | |

- i) This score will be converted to a percentage and only bidders that have met or exceeded the minimum threshold of 70 percent for functionality will be evaluated and scored in terms of pricing and Broad Based Black Economic Empowerment Status Level Certificates provided in terms of the Preferential Procurement Policy Framework Act of 2000 and the Preferential Procurement Regulations.
- ii) Any proposal not meeting a minimum score of 70 percent for their technical proposal will be disqualified.

14.3 Phase III: Site Inspection

At the OCJ's discretion a site inspection will be conducted at this stage. The OCJ will visit the selected service provider's premises with the objective of verifying facts of the bidders as contained in their respective bid documents. Should it be discovered during the site inspection that the information submitted by the service provider is inconsistent with what is on their current premises of business, such bidder will be disqualified.

14.4 Phase IV: Price and B-BBEE

14.4.1 In terms of Regulation 5 of the Preferential Procurement Regulations pertaining to the Preferential Procurement Policy Framework Act, 2000 responsive bids will be adjudicated by the Department on the 80/20-preference point for Broad-Based Black economic empowerment in terms of which points are awarded to bidders on the basis of:

14.4.2 The lowest price (maximum 80 points)

14.4.3 Broad-based black Economic Empowerment (maximum 20 points)

14.4.4 The following formula will be used to calculate the points for price in respect of bidders with a Rand value below R50 000 000

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$$P_s = 50 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

Ps = Points scored for comparative price of bid under consideration
Pt = Comparative price of bid under consideration

Pmin = Comparative price of lowest acceptable bid

14.4.5 A maximum of 20 points may be awarded to a bidder for being a Broad-Based Black Economic Empowerment and/or subcontracting with a Broad-Based Black Economic Empowerment stipulated in the Preferential Procurement regulations. For this bid the maximum number of Broad-based Black Economic Empowerment status that could be allocated to a bidder is indicated in paragraph 15.1.

14.4.6 It is the Government's intention to promote the following Broad-Based Black Economic Empowerment with this bid, and the points to be allocated are indicated against each level of contributor.

15. POINTS

15.1 The Preferential Procurement Policy Framework Act 2000 (PPPFA) Preferential Procurement Regulations, 2017 were gazetted on 20 January 2017 (No. 40553) and effective from 1 April 2017. These regulations require bidders to submit valid original or certified copies of their B-BBEE Status Level Certificates from a SANAS accredited verification agency and accredited Auditing firm, the 80/20 preference points systems will be applied in accordance with the formula and applicable points provided for in the respective status level contributor tables in the Regulations.

| B-BBEE level of contributor | Number of points |
|------------------------------------|-------------------------|
| 1 | 20 |
| 2 | 18 |
| 3 | 14 |
| 4 | 12 |
| 5 | 8 |
| 6 | 6 |
| 7 | 4 |
| 8 | 2 |
| Non-compliant contributor | 0 |

15.2 Failure to capture the required status level and to submit the required B-BBEE status level certificates will lead to a zero (0) status level for non-compliant Service Providers.

15.3 The points scored by a bidder in respect of the points indicated above will be added to the points scored for price.

15.4 Bidders are requested to complete the SBD 6.1 form in order to claim for preference points.

15.5 Only a bidder who has fully completed and signed the declaration part of the preference claim form will be considered for B-BBEE status.

15.6 Supply Chain Management may, before a bid is adjudicated or at any time, require a bidder to substantiate claims it has made with regard to B-BBEE status.

15.7 Points scored will be rounded off to the nearest two (2) decimals.

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15.8 In the event that two or more bids have scored equal total points, the contract will be awarded to the bidder scoring the highest number of points for B-BBEE status. Should two or more bids be equal in all respects, the award shall be decided by drawing of lots.

15.9 A contract may, on reasonable and justifiable grounds, be awarded to a bidder that did not score the highest number of points.

15.10 The bidder must submit copies of identity documents of all directors or shareholders of the company with the bid documents at the closing date and time of the bid.

16. VALUE ADDED TAX

All bid prices must be inclusive of 14% Value-Added Tax.

17. REGISTRATION

Latest proof of company registration from Companies and Intellectual Property Commission (CIPC) must be submitted in the form of certified copies of the relevant registration documents

18. CLIENT BASE

18.1 Bidders must have specific experience and submit at least three recent references (in a form of written proof on their company's letterhead including relevant person (s), telephone, fax numbers and e-mails) of similar work undertaken. The Reference letters are to be signed by at least a Senior Manager of the company.

18.2 The OCJ reserves the right to contact references during the evaluation and adjudication process to obtain information.

19. LEGAL IMPLICATIONS

19.1 Successful Service Providers must be prepared to enter into a service level agreement with the OCJ.

20. COMMUNICATION

Supply Chain Management will communicate with bidders for, among others, where bid clarity

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is sought, to obtain information or to extend the validity period. Any communication either by facsimile, letter or electronic mail or any other form of correspondence to any government official, department or representative of a testing institution or a person acting in an advisory capacity for the OCJ in respect of this bid between the closing date and the award of the bid by the bidder is prohibited.

21. COUNTER CONDITIONS

Bidders' attention is drawn to the fact that amendments to any of the Terms of Reference by bidders will result in invalidation of such bids.

22. PROHIBITION OF RESTRICTIVE PRACTICES

In terms of section 4(1) of the Competition Act of 1998, 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 or were involved in:

22.1 directly or indirectly fixing a purchase or selling price or any other trading condition;

22.2 dividing markets by allocating customers, suppliers, territories or specific types of goods or services; or

22.3 Collusive bidding.

22.4 If a bidder(s) or contractor(s), in the judgment of the purchaser, has/have engaged in any of the restrictive practices referred to above, the purchaser may, without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered or terminate the contract in whole or in part and refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act of 1998.

23. FRONTING

- 23.1 The OCJ supports the spirit of broad based black economic empowerment and recognizes that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent and legally compliant manner. Against this background the OCJ condemns any form of fronting.
- 23.2 The OCJ, in ensuring that bidders conduct themselves in an honest manner will, as part of the bid evaluation processes, conduct or initiate the necessary enquiries or investigations to determine the accuracy of the representation made in bid documents. Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the Department of Trade and Industry, be established during such enquiry or investigation, the onus will be on the bidder or contractor to prove that fronting does not exist. Failure to do so within a period of 14 days from date of notification may invalidate the bid or contract and may also result in the restriction of the bidder or contractor to conduct business with the public sector for a period not exceeding ten (10) years, in addition to any other remedies the OCJ may have against the bidder or contractor concerned.

24. CONFIDENTIALITY

- 24.1 Service Providers shall hold the ToR and all information related to the Bid in strict confidence and usage of such information shall be limited to the preparation of the Bid.
- 24.2 A successful service provider(s) will be bound by this confidentiality provision preventing the unauthorized disclosure of any of the information contained in the above documents to other organizations or individuals. The Service Providers may not disclose any information or documentation to other organizations or individuals.

25. INTELLECTUAL PROPERTY

A Service Provider may not use or disclose any information, documentation or products to other clients without the written consent of the OCJ.

26. CONTACT DETAILS

26.1 SCM Enquiries: Bongani Mankwane, Tel: 010-493 2635

Email: BidEnquiries@judiciary.org.za

26.2 Technical Enquiries: Dorothea Botha, Tel: 010-493 2630

Email: DBotha@judiciary.org.za