

PART A INVITATION TO BID

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

BID NUMBER:	OCJ2018/01	CLOSING DATE:	2018-11-30	CLOSING TIME:	11:00
DESCRIPTION	Re-advertisement- Appointment of a service provider to provide a media monitoring services and analysis for the Office of the Chief Justice (OCJ) for a period of thirty six (36) months				

BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)

Office of the Chief Justice, 188 14th Road, Noordwyk, Midrand, 1685

BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO

CONTACT PERSON	B Mankwane
TELEPHONE NUMBER	0104932635
FACSIMILE NUMBER	
E-MAIL ADDRESS	BidEnquiries@judiciary.org.za

TECHNICAL ENQUIRIES MAY BE DIRECTED TO:

CONTACT PERSON	MS L Ntuli
TELEPHONE NUMBER	010 493 2500
FACSIMILE NUMBER	
E-MAIL ADDRESS	BidEnquiries@judiciary.org

SUPPLIER INFORMATION

NAME OF BIDDER			
POSTAL ADDRESS			
STREET ADDRESS			
TELEPHONE NUMBER	CODE	NUMBER	
CELLPHONE NUMBER			
FACSIMILE NUMBER	CODE	NUMBER	
E-MAIL ADDRESS			
VAT REGISTRATION NUMBER			
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:	OR	CENTRAL SUPPLIER DATABASE No: MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No	B-BBEE STATUS LEVEL SWORN AFFIDAVIT	[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No

[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	[IF YES ENCLOSE PROOF]		[IF YES, ANSWER PART B:3]

QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

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

PART B TERMS AND CONDITIONS FOR BIDDING

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

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

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:
(Proof of authority must be submitted e.g. company resolution)

DATE:



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 11:00	Closing date: 30 November 2018

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

ITEM NO.	QUANTITY	DESCRIPTION	BID PRICE IN RSA CURRENCY ** (ALL APPLICABLE TAXES INCLUDED)
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- Required by:

- At:

- Brand and model

- Country of origin

- Does the offer comply with the specification(s)? *YES/NO

- If not to specification, indicate deviation(s)

- Period required for delivery

*Delivery: Firm/not firm

- Delivery basis

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

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

*Delete if not applicable



DECLARATION OF INTEREST

1. Any legal person, including persons employed by the 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:

- i) What percentage of the contract will be subcontracted.....%
- ii) The name of the sub-contractor.....
- iii) The B-BBEE status level of the sub-contractor.....
- iv) Whether the sub-contractor is an EME or QSE
(Tick applicable box)
- | | | | |
|-----|--------------------------|----|--------------------------|
| YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |
|-----|--------------------------|----|--------------------------|
- v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations, 2017:

Designated Group: An EME or QSE which is at last 51% owned	EME	QSE
--	-----	-----



by:	√	√
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
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



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

THE NATIONAL TREASURY

Republic of South Africa



GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT

July 2010

GOVERNMENT PROCUREMENT
GENERAL CONDITIONS OF CONTRACT
July 2010

NOTES

The purpose of this document is to:

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

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

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

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
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Dumping and countervailing duties
25. Force Majeure
26. Termination for insolvency
27. Settlement of disputes
28. Limitation of liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties
33. National Industrial Participation Programme (NIPP)
34. Prohibition of restrictive practices

General Conditions of Contract

1. Definitions

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

RSA.

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

obligations of the supplier covered under the contract.

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

2. Application

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

3. General

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

4. Standards

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

5. Use of contract documents and information; inspection.

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

6. Patent rights

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

7. Performance security

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

8. Inspections, tests and analyses

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

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

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

9. Packing

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

10. Delivery and documents

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

11. Insurance

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

12. Transportation

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

13. Incidental services

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

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

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

14. Spare parts

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

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

15. Warranty

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

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

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

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

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

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

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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</p> |

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

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

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

22. Penalties

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

23. Termination for default

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

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

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

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

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

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

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

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

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

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

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

24. Anti-dumping and countervailing duties and rights

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

may be due to him

25. Force Majeure

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

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

26. Termination for insolvency

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

27. Settlement of Disputes

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

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

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

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

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

(a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and

(b) the purchaser shall pay the supplier any monies due the supplier.

28. Limitation of liability

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

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

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

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

Js General Conditions of Contract (revised July 2010)



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RE-ADVERTISEMENT: TERMS OF REFERENCE FOR APPOINTMENT OF A SERVICE PROVIDER TO PROVIDE MEDIA MONITORING AND ANALYSIS SERVICES FOR THE OFFICE OF THE CHIEF JUSTICE

Bid number: OCJ2018/01

Date issued: 09 November 2018

Closing date and time: 30 November 2018 and 11:00

Bid validity period: 120 days

TENDER BOX ADDRESS:

ADDRESS 188 14th Road Noordwyk

ADDRESS Midrand

ADDRESS Johannesburg



Request for Proposals for Bid no. OCJ2018/01: Re-advertisement- Appointment of a service provider to provide media monitoring and analysis services for the Office of the Chief Justice for period of thirty-six (36) months

1	INTRODUCTION	4
2	PURPOSE.....	4
3	LEGISLATIVE FRAMEWORK OF THE BID	4
4	COMPULSARY BRIEFING SESSIONS	5
5	TIMELINE OF THE BID PROCESS.....	5
6	CONTACT AND COMMUNICATION.....	5
7	LATE BIDS.....	6
8	COUNTER CONDITIONS.....	6
9	FRONTING.....	6
10	SUPPLIER DUE DILIGENCE	7
11	SUBMISSION OF PROPOSALS	7
12	PRESENTATION / DEMONSTRATION	8
13	DURATION OF THE CONTRACT	8
14	SCOPE OF WORK.....	9
15	SEARCH KEY WORDS.....	10
16	SERVICE DELIVERY EXPECTATIONS.....	10
17	MEDIA ANALYSIS	10
18	ANALYSIS AND METHODOLOGY.....	11
19	DELIVERABLES	11
20	EVALUATION AND SELECTION CRITERIA.....	12
21	TRUSTS, CONSORTIUMS AND JOINT VENTURES	18
22	SUB- CONTRACTING	18
23	GENERAL CONDITIONS OF CONTRACT	18
24	SERVICE LEVEL AGREEMENT.....	19
25	SPECIAL CONDITIONS OF THIS BID.....	20
26	THE OFFICE OF THE CHIEF JUSTICE REQUIRES BIDDER(S) TO DECLARE	20
27	CONFLICT OF INTEREST, CORRUPTION AND FRAUD	21
28	MISREPRESENTATION DURING THE LIFECYCLE OF THE CONTRACT	22



Request for Proposals for Bid no. OCJ2018/01: Re-advertisement- Appointment of a service provider to provide media monitoring and analysis services for the Office of the Chief Justice for period of thirty-six (36) months

29	PREPARATION COSTS	22
30	INDEMNITY.....	22
31	PRECEDENCE.....	22
32	LIMITATION OF LIABILITY	22
33	TAX COMPLIANCE	23
34	TENDER DEFAULTERS AND RESTRICTED SUPPLIERS.....	23
35	GOVERNING LAW.....	23
36	RESPONSIBILITY FOR SUB-CONTRACTORS AND BIDDER'S PERSONNEL.....	23
37	CONFIDENTIALITY	23
38	OFFICE OF THE CHIEF JUSTICE PROPRIETARY INFORMATION.....	24
39	AVAILABILITY OF FUNDS.....	24
40	PRICING SCHEDULE (SUBMIT FULL DETAILS OF THE PRICING PROPOSAL IN A SEPARATE ENVELOPE)	25



Request for Proposals for Bid no. OCJ2018/01: Re-advertisement- Appointment of a service provider to provide media monitoring and analysis services for the Office of the Chief Justice for period of thirty-six (36) months

1 INTRODUCTION

- 1.1 The Directorate: Communications is responsible for provision of media related services to the Office of the Chief Justice (OCJ). These include monitoring media coverage of the Department on daily basis, to ensure timeous responses to media reports concerning the OCJ at all levels and to ensure that the OCJ's issues are properly reflected in media reports.
- 1.2 The media monitoring analysis provides a comprehensive national and international daily monitoring service which includes print, broadcast, online media and social media to capture all the Department's media exposure, and also to verify that communication activities are having the desired effect.

2 PURPOSE

- 2.1 To appoint a service provider for media monitoring and media content analysis services for the OCJ.

3 LEGISLATIVE FRAMEWORK OF THE BID

3.1 Tax Legislation

- 3.1.1 Bidder(s) must be compliant when submitting a proposal to the OCJ and remain compliant for the entire contract term with all applicable tax legislation, including but not limited to the Income Tax Act, 1962 (Act No. 58 of 1962) and Value Added Tax Act, 1991 (Act No. 89 of 1991).
- 3.1.2 It is a condition of this bid that the tax matters of the successful bidder be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.
- 3.1.3 The tax compliance status requirements are also applicable to foreign bidders / individuals who wish to submit bids.
- 3.1.4 It is a requirement that bidders grant a written confirmation when submitting this bid that SARS may on an ongoing basis during the tenure of the contract disclose the bidder's tax compliance status and by submitting this bid such confirmation is deemed to have been granted.
- 3.1.5 Bidders are required to be registered on the Central Supplier Database and the National Treasury shall verify the bidder's tax compliance status through the Central Supplier Database.
- 3.1.6 Where Consortia / Joint Ventures / Sub-contractors are involved, each party must be registered on the Central Supplier Database and their tax compliance status will be verified through the Central Supplier Database.



Request for Proposals for Bid no. OCJ2018/01: Re-advertisement- Appointment of a service provider to provide media monitoring and analysis services for the Office of the Chief Justice for period of thirty-six (36) months

3.2 Procurement Legislation

3.2.1 The OCJ has a detailed evaluation methodology premised on Treasury Regulation 16A3 promulgated under Section 76 of the Public Finance Management Act, 1999 (Act, No. 1 of 1999), the Preferential Procurement Policy Framework Act 2000 (Act, No.5 of 2000) and the Broad-Based Black Economic Empowerment Act, 2003 (Act, No. 53 of 2003).

3.3 Technical Legislation and/or Standards

3.3.1 Bidder(s) should be cognisant of the legislation and/or standards specifically applicable to the services.

4 COMPULSARY BRIEFING SESSIONS

4.1 There will not be a briefing session

5 TIMELINE OF THE BID PROCESS

5.1 The period of validity of tender and the withdrawal of offers, after the closing date and time is 90 days. The project timeframes of this bid are set out in table 1 below:

Table 1: Timelines of Bid Process

Activity	Due Date
Advertisement of bid on Government Tender Bulletin	09 November 2018
Questions relating to bid from bidder(s)	23 November 2018
Bid closing date	30 November 2018
Notice to bidder(s)	The OCJ will endeavor to inform bidders of progress until conclusion of the tender.

5.2 All dates and times in this bid are South African standard Telkom time.

5.3 Any time or date in this bid is subject to change at the OCJ's discretion.

5.4 The establishment of a time or date in this bid does not create an obligation on the part of the OCJ to take any action, or create any right in any way for any bidder to demand that any action be taken on the date established.

5.5 The bidder accepts that, if the OCJ extends the deadline for bid submission (the closing date) for any reason, the requirements of this bid apply equally to the extended deadline.

6 CONTACT AND COMMUNICATION

6.1 A duly nominated official of the bidder(s) can make enquiries in writing, to the delegated OCJ official via email BidEnquiries@judiciary.org.za or 010 493 2500. Bidder(s) must reduce all telephonic enquiries to writing and send it to the above email address.

6.2 The delegated official of the OCJ may communicate with bidder(s) where clarity is sought on the bid proposal.



Request for Proposals for Bid no. OCJ2018/01: Re-advertisement- Appointment of a service provider to provide media monitoring and analysis services for the Office of the Chief Justice for period of thirty-six (36) months

- 6.3 Any communication by the bidder(s) with an official or a person acting in an advisory capacity for the OCJ in respect of the bid between the closing date and the award of the bid, is prohibited.
- 6.4 All communication between the bidder(s) and the OCJ must be done in writing.
- 6.5 Whilst all due care has been taken in connection with the preparation of this bid, the OCJ makes no representations or warranties that the content of the bid or any information communicated to or provided to bidder(s) during the bidding process is, or will be, accurate, current or complete. The OCJ and its employees and advisors will not be liable with respect to any information communicated which may not be accurate, current or complete.
- 6.6 If bidder(s) finds or reasonably believes it has found any discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by the OCJ (other than minor clerical matters), the bidder(s) must promptly notify the OCJ in writing of such discrepancy, ambiguity, error or inconsistency in order to afford the OCJ an opportunity to consider what corrective action is necessary (if any).
- 6.7 Any actual discrepancy, ambiguity, error or inconsistency in the bid or any other information provided by the OCJ will, if possible, be corrected and provided to all bidder(s) without attribution to the bidder(s) who provided the written notice.
- 6.8 All persons ((including bidder(s)) obtaining or receiving the bid and any other information in connection with the bid or the tendering process must keep the contents of the bid and other such information confidential and not disclose or use the information except as required for the purpose of developing a proposal in response to this bid.

7 LATE BIDS

- 7.1 Bids received after the closing date and time, at the address indicated in the bid documents, will not be accepted for consideration and where practicable, be returned unopened to the bidder(s).

8 COUNTER CONDITIONS

- 8.1 Bidders' attention is drawn to the fact that amendments to any of the bid conditions or setting of counter conditions by bidders or qualifying any bid conditions will result in the invalidation of such bids.

9 FRONTING

- 9.1 Government supports the spirit of broad based black economic empowerment (BBBEE) and recognizes that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution of the Republic of South Africa and in an honest, fair, equitable, transparent and legally compliant manner. Against this background the Government condemn any form of fronting.

Request for Proposals for Bid no. OCJ2018/01: Re-advertisement- Appointment of a service provider to provide media monitoring and analysis services for the Office of the Chief Justice for period of thirty-six (36) months

9.2 The Government, in ensuring that bidders conduct themselves in an honest manner will, as part of the bid evaluation processes, conduct or initiate the necessary enquiries/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 / investigation, the onus will be on the bidder / 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 / 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 years, in addition to any other remedies the OCJ may have against the bidder / contractor concerned.

10 SUPPLIER DUE DILIGENCE

10.1 The OCJ reserves the right to conduct supplier due diligence prior to final award or at any time during the contract period. This may include site visits and requests for additional information to determine possible risks such as the availability of adequate facilities, financial standing, capacity and capability to deliver, previous performance in terms of quality and service delivery, as well as attainment of goals.

11 SUBMISSION OF PROPOSALS

11.1 Bid documents must be endorsed with the words 'BID MEDIA MONITORING' and must be hand-delivered and deposited into the tender box situated at ground floor of the OCJ National Office, 188 14th Road, Noordwyk, Midrand, Johannesburg on or before 11:00 and 30 November 2018.

11.2 Bid documents will only be considered if received by the OCJ on or before closing time and date.



Request for Proposals for Bid no. OCJ2018/01: Re-advertisement- Appointment of a service provider to provide media monitoring and analysis services for the Office of the Chief Justice for period of thirty-six (36) months

11.3 The bidder(s) are required to submit two (2) copies of each file (one (1) original and one (1) duplicate) and one (1) Electronic submission (USB/CD-ROM) with content of each file by the 11:00 and 30 November 2018. Each file and electronic submission must be marked correctly and sealed separately for ease of reference during the evaluation process. Furthermore, the file and information in the Electronic submission must be labelled and submitted in the following format:

Table 2: Format of Bid Submission

FILE 1 (TECHNICAL FILE)	FILE 2 (PRICE & BBBEE)
Exhibit 1: Pre-qualification documents (Refer to Section 17.2 - Gate 0: Pre-qualification Criteria (Table 3))	Exhibit 1: Pricing Schedule
Exhibit 2: <ul style="list-style-type: none"> • Technical Responses and Bidder Compliance Checklist for Technical Evaluation • Supporting documents for technical responses. (Refer to Section 17.3 - Gate 3: Technical Evaluation Criteria) 	
Exhibit 3: <ul style="list-style-type: none"> • General Conditions of Contract (GCC) • Draft Service Level Agreement 	
Exhibit 4: <ul style="list-style-type: none"> • Company Profile • Any other supplementary information 	

11.4 Bidders are requested to initial each page of the tender document on the top right hand corner.

12 PRESENTATION / DEMONSTRATION

12.1 The OCJ reserves the right to request presentations or demonstrations from the shortlisted bidders as part of the bid evaluation process.

13 DURATION OF THE CONTRACT

13.1 The successful bidder(s) will be appointed for a period of thirty six (36) months



Request for Proposals for Bid no. OCJ2018/01: Re-advertisement- Appointment of a service provider to provide media monitoring and analysis services for the Office of the Chief Justice for period of thirty-six (36) months

14 SCOPE OF WORK

14.1 Media Monitoring

14.1.1 The scope of the service should include monitoring of the following:

14.1.1.1 Online Monitoring

- a) The service provider must monitor national and international online media.
- b) The service provider must provide the OCJ with daily summaries of relevant articles, (with links to actual reports / clips / comments).

14.1.1.2 Broadcast Monitoring

- a) The service provider must monitor on a daily basis national, community and international television news channels and programmes, radio news broadcasts, podcasts, as well as phone-in and current affairs programmes.
- b) The service provider must provide the daily monitoring of the broadcast media summaries as well as copies of or online links to the actual broadcast clips or podcasts with download availability at no extra cost to the client;
- c) On-demand electronic supply of television and radio broadcast items.

14.1.1.3 Print Monitoring

- a) The service provider must monitor all major national, community and international daily and weekly newspapers; national and international magazines and business journals for specific keywords or topics;
- b) The copies of the articles must be provided electronically via e-mail or via an online link.

14.1.1.4 Social Media Monitoring

- a) The service provider must monitor all major social media sites for specific keywords or topics;
- b) The copies of social media mentions must be provided electronically via e-mail or via online link.

14.1.1.5 Media Analysis

- a) The service provider must provide daily, weekly and quarterly media analysis of coverage (print, online, broadcast, social media) for the OCJ, including major topics, favourability of coverage, coverage reach, Advertising Venue Equivalent (AVE), and all analysis related requirements.

14.1.1.6 Media Archiving

- a) Provide the OCJ with an effective media archiving system, allowing for the retrieval of all media items (print, online, broadcast, social media). The archive system must be effective and user friendly.

Request for Proposals for Bid no. OCJ2018/01: Re-advertisement- Appointment of a service provider to provide media monitoring and analysis services for the Office of the Chief Justice for period of thirty-six (36) months

15 SEARCH KEY WORDS

15.1 Search key words are listed below. The service provider must allow the OCJ leverage to amend the list of search key words from time to time at no additional cost:

- a) Chief Justice Mogoeng Mogoeng
- b) Deputy Chief Justice Raymond Zondo,
- c) Minister Michael Masutha,
- d) Office of the Chief Justice,
- e) Conference of Constitutional Jurisdictions of Africa (CCJA),
- f) Memme Sejosengwe, Secretary-General of the Office of the Chief Justice,
- g) Nathi Mncube, the Spokesperson for the South African Judiciary,
- h) Constitutional Court,
- i) Concourt,
- j) South African Judiciary,
- k) Supreme Court of Appeal,
- l) High Court,
- m) Regional Court,
- n) Magistrates Court,
- o) Land Claims Court,
- p) Competition Appeals Court,
- q) Electoral Court, and
- r) The Labour and Labour Appeals Court.
- s) Judges
- t) Magistrates

16 SERVICE DELIVERY EXPECTATIONS

- a) Daily electronic delivery of relevant media articles or clips to the OCJ – one at 07h30 and again at 14h00.
- b) Ability to access and provide electronic media coverage retrospectively.
- c) E-mailed summaries to designated OCJ officials (notifying the organisation of any negative publicity that needs to be managed or responded to) – one at 07h30 and again at 14h00 or as the demand dictates.
- d) Tracking of coverage across print, electronic, online, and social media platforms.
- e) The SMS / e-mail alerts of breaking major news stories pertaining to the OCJ or Judiciary to designated OCJ officials.

17 MEDIA ANALYSIS

- a) The OCJ defines and understands its media profile by evaluating the tone of issues, messages, advocates and critics, published in the media space. In order to gain this understanding, the OCJ monitors its coverage in all media closely, and seeks to understand how the media and the public perceive and interpret news and information about the OCJ through media content analysis. For this reason, the OCJ continuously requires the services of a media analysis company to analyse the media coverage.
- b) Media analysis must be provided together with the media summary on a daily basis. Further, weekly, and quarterly media analysis reports must be provided.
- c)



Request for Proposals for Bid no. OCJ2018/01: Re-advertisement- Appointment of a service provider to provide media monitoring and analysis services for the Office of the Chief Justice for period of thirty-six (36) months

17.1 MEDIA ANALYSIS

17.2 MEDIA CONTENT ANALYSIS

17.2.1 Media content analysis assists the organisation to formulate and/or develop key communication messages. It may also assist to examine how messages should be framed, explaining the implications of the manner in which certain issues are covered by the media and depict how coverage of issues could be changed for maximum positive effect. This will contribute towards enabling the OCJ to:

- a) Effectively assess trends in coverage of the OCJ in the media;
- b) Analyse national and international print, broadcast, online media and social media coverage as per pre-determined search words;
- c) Inform the OCJ communications strategy; and
- d) Assess effectiveness of the OCJ communication messages.

18 ANALYSIS AND METHODOLOGY

18.1 Media content analysis, quantitative and qualitative, must provide accurate and dependable trends in content, presentation and positioning of the OCJ in the media. To this end, service provider must demonstrate their capacity and competency to provide:

- e) Continuous and detailed analysis of the content of media coverage monitored including the perceptions created by coverage on key issues and the nature of the coverage favourability positive, negative or neutral;
- f) Practical application of relevant methodologies for media content analysis;
- g) A quantitative methodology such as AVE and Negative to Positive Ratio;
- h) Effective and intensive quality control mechanisms to ensure that data is consistent and accurate;
- i) Informative reports with recommendation on interventions and future action; and
- j) Urgent and ad hoc topic analysis as and when required.

19 DELIVERABLES

19.1 The service provider will be expected to deliver the following:

- a) Daily media monitoring and analysis;
- b) A weekly analysis report of coverage;
- c) A detailed quarterly report for the OCJ based on the scope of work;
- d) Provide ad-hoc reports on request at no extra cost;
- e) Provide broadcast clippings on request at no extra cost;
- f) Provide a user friendly platform and archiving system;
- g) Ensure continuous availability for consultation as and when required; and
- h) A dedicated person to manage the OCJ account and support officials;



Request for Proposals for Bid no. OCJ2018/01: Re-advertisement- Appointment of a service provider to provide media monitoring and analysis services for the Office of the Chief Justice for period of thirty-six (36) months

20 EVALUATION AND SELECTION CRITERIA

The OCJ has set minimum standards (Gates) that a bidder needs to meet in order to be evaluated and selected as a successful bidder. The minimum standards consist of the following:

Table 3: Evaluation and Selection Criteria

Pre-qualification Criteria (Gate 0)	Technical Evaluation Criteria (Gate 1)	Price and B-BBEE Evaluation (Gate 2)
Bidders must submit all documents as outlined in paragraph 16.1 (Table 10) below. Only bidders that comply with ALL these criteria will proceed to Gate 1.	Bidder(s) are required to achieve a minimum of 60 points out of 100 points to proceed to Gate 2 (Price and BEE).	Bidder(s) will be evaluated out of 100 points and Gate 2 will only apply to bidder(s) who have met and exceeded the threshold of 60 points.



Request for Proposals for Bid no. OCJ2018/01: Re-advertisement- Appointment of a service provider to provide media monitoring and analysis services for the Office of the Chief Justice for period of thirty-six (36) months

20.1 Gate 0: Pre-qualification Criteria

20.1.1 Without limiting the generality of the OCJ's other critical requirements for this bid, bidder(s) must submit the documents listed in Table 10 below. All documents must be completed and signed by the duly authorised representative of the prospective bidder(s). During this phase Bidders' responses will be evaluated based on compliance with the listed administration and mandatory bid requirements. The bidder(s) proposal may be disqualified for non-submission of any of the documents.

Table 4: Pre-qualification Criteria

Documents that must be submitted	Non-submission may result in disqualification?	
Invitation to Bid – SBD 1	YES	Complete and sign the supplied pro forma document
Tax Status Tax Clearance Certificate – SBD 2	YES	Written confirmation that SARS may on an ongoing basis during the tenure of the contract disclose the bidder's tax compliance status. (Refer Section 4.1.4) Proof of Registration on the Central Supplier Database (Refer Section 4.1.5) Vendor number In the event where the Bidder submits a hard copy of the Tax Clearance Certificate, the CSD verification outcome will take precedence.
Pricing Schedule – Firm Prices- SBD 3.1	YES	Complete and sign the supplied pro forma document
Declaration of Interest – SBD 4	YES	Complete and sign the supplied pro forma document
Preference Point Claim Form – SBD 6.1	NO	Non-submission will lead to a zero (0) score on BBBEE
Declaration of Bidder's Past Supply Chain Management Practices – SBD 8	YES	Complete and sign the supplied pro forma document
Certificate of Independent Bid Determination – SBD 9	YES	Complete and sign the supplied pro forma document
Registration on Central Supplier Database (CSD)	NO	The WI-FI provider must be registered as a service provider on the Central Supplier Database (CSD). If you are not registered proceed to complete the registration of your company prior to submitting your proposal. Visit https://secure.csd.gov.za/ to obtain your vendor number. Submit proof of registration.
Pricing Schedule	YES	Submit full details of the pricing proposal as per in a separate envelope



Request for Proposals for Bid no. OCJ2018/01: Re-advertisement- Appointment of a service provider to provide media monitoring and analysis services for the Office of the Chief Justice for period of thirty-six (36) months

Technical Proposal	YES	Submit a detailed proposal indicating the proposed methodology to respond to the OCJ's travel requirements
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20.2 Gate 2: Technical Evaluation Criteria = 100 points

20.2.1 All bidders are required to respond to the technical evaluation criteria scorecard and compliance checklist.

20.2.2 Only Bidders that have met the Pre-Qualification Criteria in (Gate 0) will be evaluated in Gate 2 for functionality. Functionality will be evaluated as follows:

- a) **Desktop Technical Evaluation** – Bidders will be evaluated out of 100 points and are required to achieve a minimum threshold of 60 points in order to proceed to Gate 2 for Price and BBBEE evaluations

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

Table 5: Functionality

No	CRITERIA	WEIGHT
1)	Track Record Demonstrate an organizational track record in media monitoring and analysis. Bidders must provide client reference letters where services of similar nature were successfully implemented. Reference letters must be in a letterhead of the client with contact details and signed. Screenshots will not be admitted. 6 more reference letters = 5 points 5 Reference letters = 4 points 4 Reference letters = 3 points 2-3 reference letters = 2 points 1 Reference letter = 1 point	15



Request for Proposals for Bid no. OCJ2018/01: Re-advertisement- Appointment of a service provider to provide media monitoring and analysis services for the Office of the Chief Justice for period of thirty-six (36) months

No	CRITERIA	WEIGHT
2.	<p>Key Personnel: Account Manager</p> <p>The CV, qualifications and certified Identity document of the Account Manager must specify the number of years he/she has as an account manager undertaking similar work, as well as the companies where this work was undertaken.</p> <p>0 to 2 years = 1 3 to 4 years = 2 5 years = 3 6 to 8 years = 4 9 years and above = 5</p> <p>Bidders must submit only one CV of the Account Manager. Replacement of the proposed Account Manager after the closing date of the bid without prior approval from the OCJ is not allowed.</p>	7.5
3	<p>Key Personnel: Analyst</p> <p>The CV, qualifications and certified Identity document of the Analyst must specify the number of years he/she has as an Analyst undertaking similar work, as well as the companies where this work was undertaken.</p> <p>0 to 2 years = 1 3 to 4 years = 2 5 years = 3 6 to 8 years = 4 9 years and above = 5</p> <p>Bidders must submit only one CV of the Analyst. Replacement of the proposed Analyst after the closing date of the bid without prior approval from the OCJ is not allowed.</p>	7.5
4.	<p>Ability to provide international Media Monitoring Services.</p> <p>A list of monitored international media must be provided supported by a detailed proposal. (Detailing which continent and regions are covered)</p>	15
5	<p>Ability to provide comprehensive national daily media monitoring services on all Department related media coverage (all types of media: broadcast, print, online and community). The ability to measure the reach of the Department's website and social media platforms is essential.</p>	20



Request for Proposals for Bid no. OCJ2018/01: Re-advertisement- Appointment of a service provider to provide media monitoring and analysis services for the Office of the Chief Justice for period of thirty-six (36) months

No	CRITERIA	WEIGHT
	A list of publications, sites, platforms monitored must be provided supported by a detailed proposal	
6	Ability to provide quantitative and qualitative analysis (especially, favour reach and advertising value equivalent) of coverage in order to measure the results of communication actions and key messages uptake, with key recommendations. (This must be supported by a detailed proposal.)	20
7	Ability to provide audio, audio-visual clips and transcripts on request (e.g. news footage) at no extra cost. Ability to provide online service for dra customised reports. (This must be supported by a detailed proposal.)	15
	TOTAL	100

Minimum qualification for the bidder to be considered for further evaluation is 60 points. Points scored for functionality will be rounded off to the nearest two decimal places.

Bidders will be rated on the ratings stated below

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

Formula used for scoring = rate X weight ÷ Maximum Rating

20.3 Gate 2: Price and BBBEE Evaluation (80+20) = 100 points

20.3.1 Only bidders that have met the 60-point threshold in Gate 1 will be evaluated in Gate 2 for price and BBBEE. Price and BBBEE will be evaluated as follows:

20.3.2 In terms of Regulation 6 of the Preferential Procurement Regulations pertaining to the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000), responsive bids will be adjudicated on the 80/20-preference point system in terms of which points are awarded to bidders on the basis of:

- The bid price (maximum 80 points)
- B-BBEE status level of contributor (maximum 20 points)



Request for Proposals for Bid no. OCJ2018/01: Re-advertisement- Appointment of a service provider to provide media monitoring and analysis services for the Office of the Chief Justice for period of thirty-six (36) months

20.3.3 Stage 1 – Price Evaluation (80 Points)

a) The following formula will be used to calculate the points for price:

Where

P_s = Points scored for comparative price of bid under consideration

P_t = Comparative price of bid under consideration

P_{min} = Comparative price of lowest acceptable bid

Criteria	Points
Price Evaluation $P_s = 80 \left(1 - \frac{P_t - P_{min}}{P_{min}} \right)$	80

Stage 2 – BBBEE Evaluation (20 Points)

20.3.4 Stage 3 (80 + 20 = 100 points)

20.3.5 The Price and BBBEE points will be consolidated.

20.3.6 B-BBEE Points allocation

a) A maximum of 20 points may be allocated to a bidder for attaining their B-BBEE status level of contributor in accordance with the table below:

Table 6: B-BBEE Points Allocation

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

b) B-BBEE points may be allocated to bidders on submission of the following documentation or evidence:

- A duly completed Preference Point Claim Form: Standard Bidding Document (SBD 6.1); and
- B-BBEE Certificate.



21 TRUSTS, CONSORTIUMS AND JOINT VENTURES

- 21.1 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 21.2 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 21.3 Bidders must submit concrete proof of the existence of joint ventures and/or consortium arrangements. The OCJ will accept signed agreements as acceptable proof of the existence of a joint venture and/or consortium arrangement.
- 21.4 The joint venture and/or consortium agreements must clearly set out the roles and responsibilities of the Lead Partner and the joint venture and/or consortium party. The agreement must also clearly identify the Lead Partner, who shall be given the power of attorney to bind the other party/parties in respect of matters pertaining to the joint venture and/or consortium arrangement.

22 SUB- CONTRACTING

- 22.1 Bidders or tenderers who want to claim Preference points will have to comply fully with Regulations 11(8) and 11(9) of the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000) (PPPFA Act) with regard to sub-contracting.
- 22.2 The following is an extract from the PPPFA Act:
- 22.2.1 11(8) "A person must not be awarded points for B-BBEE status level if it is indicated in the tender documents that such a tenderer intends sub- contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a tenderer qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract."
- 22.2.2 11(9) "A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract."

23 GENERAL CONDITIONS OF CONTRACT

- 23.1 Any award made to a bidder(s) under this bid is conditional, amongst others, upon:

Request for Proposals for Bid no. OCJ2018/01: Re-advertisement- Appointment of a service provider to provide media monitoring and analysis services for the Office of the Chief Justice for period of thirty-six (36) months

23.1.1 The bidder(s) accepting the terms and conditions contained in the General Conditions of Contract as the minimum terms and conditions upon which OCJ is prepared to enter into a contract with the successful Bidder(s).

23.1.2 The bidder submitting the General Conditions of Contract to OCJ together with its bid, duly signed by an authorised representative of the bidder.

24 SERVICE LEVEL AGREEMENT

24.1 Upon awarding of the tender, the OCJ and the successful bidder will conclude a Service Level Agreement regulating the specific terms and conditions applicable to the services being procured by the OCJ more or less in the format of the draft Service Level Indicators included in this tender pack.

24.2 The OCJ reserves the right to vary the proposed draft Service Level Indicators during the course of negotiations with a bidder by amending or adding thereto.

24.3 Bidder(s) are requested to:

24.3.1 Comment on the draft Service Level Indicators and where necessary, make proposals to the indicators;

24.3.2 Explain each comment and/or amendment; and

24.3.3 Use an easily identifiable colour font or "track changes" for all changes and/or amendments to the Service Level Indicators for ease of reference.

24.4 The OCJ reserves the right to accept or reject any or all amendments or additions proposed by a bidder if such amendments or additions are unacceptable to the OCJ or pose a risk to the organisation.



Request for Proposals for Bid no. OCJ2018/01: Re-advertisement- Appointment of a service provider to provide media monitoring and analysis services for the Office of the Chief Justice for period of thirty-six (36) months

25 SPECIAL CONDITIONS OF THIS BID

25.1 The OCJ reserves the right:

To award this tender to a bidder(s) that did not score the highest total number of points, only in accordance with Section 2(1)(f) of the PPPFA Act.

25.1.1 To negotiate with one or more preferred bidder(s) identified in the evaluation process, regarding any terms and conditions, including price without offering the same opportunity to any other bidder(s) who has not been awarded the status of the preferred bidder(s).

25.1.2 To accept part of a tender rather than the whole tender and or appoint a service provider to render only part of the services required.

25.1.3 To carry out site inspections, product evaluations or explanatory meetings in order to verify the nature and quality of the services offered by the bidder(s), whether before or after adjudication of the bid.

25.1.4 To correct any mistakes at any stage of the tender that may have been in the bid documents or occurred at any stage of the tender process.

25.1.5 To cancel and/or terminate the tender process at any stage, including after the closing date and/or after presentations have been made, and/or after tenders have been evaluated and/or after the preferred bidder(s) have been notified of their status as such.

25.1.6 Award to multiple bidders based either on size or geographic considerations.

26 THE OFFICE OF THE CHIEF JUSTICE REQUIRES BIDDER(S) TO DECLARE

26.1 In the bidder's technical response, bidder(s) are required to declare the following:

26.1.1 Confirm that the bidder(s) is to: –

- a) Act honestly, fairly and with due skill, care and diligence, in the interests of the OCJ;
- b) Have and employ effectively the resources, procedures and appropriate technological systems for the proper performance of the services;
- c) Act with circumspection and treat the OCJ fairly in a situation of conflicting interests;
- d) Comply with all applicable statutory or common law requirements applicable to the conduct of business;
- e) Make adequate disclosures of relevant material information including disclosures of actual or potential own interests, in relation to dealings with the OCJ;
- f) Avoidance of fraudulent and misleading advertising, canvassing and marketing;
- g) To conduct their business activities with transparency and consistently uphold the interests and needs of the OCJ as a client before any other consideration; and
- h) To ensure that any information acquired by the bidder(s) from the OCJ will not be used or disclosed unless the written consent of the client has been obtained to do so.

27 CONFLICT OF INTEREST, CORRUPTION AND FRAUD

27.1 The OCJ reserves its right to disqualify any bidder who either itself or any of whose members (save for such members who hold a minority interest in the bidder through shares listed on any recognised stock exchange), indirect members (being any person or entity who indirectly holds at least a 15% interest in the bidder other than in the context of shares listed on a recognised stock exchange), directors or members of senior management, whether in respect of the OCJ or any other Government organ or entity and whether from the Republic of South Africa or otherwise ("Government Entity"):

27.1.1 Engages in any collusive tendering, anti-competitive conduct, or any other similar conduct, including but not limited to any collusion with any other bidder in respect of the subject matter of this bid;

27.1.2 Seeks any assistance, other than assistance officially provided by a Government Entity, from any employee, advisor or other representative of a Government Entity in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity;

27.1.3 Makes or offers any gift, gratuity, anything of value or other inducement, whether lawful or unlawful, to any of the OCJ's employees or other representatives;

27.1.4 Makes or offers any gift, gratuity, anything of any value or other inducement, to any Government Entity's officers, directors, employees, advisors or other representatives in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity;

27.1.5 Accepts anything of value or an inducement that would or may provide financial gain, advantage or benefit in relation to procurement or services provided or to be provided to a Government Entity;

27.1.6 Pays or agrees to pay to any person any fee, commission, percentage, brokerage fee, gift or any other consideration, that is contingent upon or results from, the award of any tender, contract, right or entitlement which is in any way related to procurement or the rendering of any services to a Government Entity;

27.1.7 Has in the past engaged in any matter referred to above; or

27.1.8 Has been found guilty in a court of law on charges of fraud and/or forgery, regardless of whether or not a prison term was imposed and despite such bidder, member or director's name not specifically appearing on the List of Tender Defaulters kept at National Treasury.



28 MISREPRESENTATION DURING THE LIFECYCLE OF THE CONTRACT

28.1 The bidder should note that the terms of its tender will be incorporated in the proposed contract by reference and that the OCJ relies upon the bidder's tender as a material representation in making an award to a successful bidder and in concluding an agreement with the bidder.

28.2 It follows therefore that misrepresentations in a tender may give rise to service termination and a claim by the OCJ against the bidder notwithstanding the conclusion of the Service Level Agreement between the OCJ and the bidder for the provision of the service in question. In the event of a conflict between the bidder's proposal and the Service Level Agreement concluded between the parties, the Service Level Agreement will prevail.

29 PREPARATION COSTS

29.1 The bidder will bear all its costs in preparing, submitting and presenting any response or tender to this bid and all other costs incurred by it throughout the bid process. Furthermore, no statement in this bid will be construed as placing the OCJ, its employees or agents under any obligation whatsoever, including in respect of costs, expenses or losses incurred by the bidder(s) in the preparation of their response to this bid.

30 INDEMNITY

30.1 If a bidder breaches the conditions of this bid and, as a result of that breach, the OCJ incurs costs or damages (including, without limitation, the cost of any investigations, procedural impairment, repetition of all or part of the bid process and/or enforcement of intellectual property rights or confidentiality obligations), then the bidder indemnifies and holds the OCJ harmless from any and all such costs which the OCJ may incur and for any damages or losses the OCJ may suffer.

31 PRECEDENCE

31.1 This document will prevail over any information provided during any briefing session whether oral or written, unless such written information provided, expressly amends this document by reference.

32 LIMITATION OF LIABILITY

32.1 A bidder participates in this bid process entirely at its own risk and cost. The OCJ shall not be liable to compensate a bidder on any grounds whatsoever for any costs incurred or any damages suffered as a result of the bidder's participation in this bid process.



33 TAX COMPLIANCE

- 33.1 No tender shall be awarded to a bidder who is not tax compliant. The OCJ reserves the right to withdraw an award made, or cancel a contract concluded with a successful bidder in the event that it is established that such bidder was in fact not tax compliant at the time of the award, or has submitted a fraudulent Tax Clearance Certificate to the OCJ or whose verification against the Central Supplier Database (CSD) proves non-compliant. The OCJ further reserves the right to cancel a contract with a successful bidder in the event that such bidder does not remain tax compliant for the full term of the contract.

34 TENDER DEFAULTERS AND RESTRICTED SUPPLIERS

- 34.1 No tender shall be awarded to a bidder whose name (or any of its members, directors, partners or trustees) appear on the Register of Tender Defaulters kept by National Treasury, or who have been placed on National Treasury's List of Restricted Suppliers. The OCJ reserves the right to withdraw an award, or cancel a contract concluded with a bidder should it be established, at any time, that a bidder has been blacklisted with National Treasury by another Government institution.

35 GOVERNING LAW

- 35.1 South African law governs this bid and the bid response process. The bidder agrees to submit to the exclusive jurisdiction of the South African courts in any dispute of any kind that may arise out of or in connection with the subject matter of this bid, the bid itself and all processes associated with the bid.

36 RESPONSIBILITY FOR SUB-CONTRACTORS AND BIDDER'S PERSONNEL

- 36.1 A bidder is responsible for ensuring that its personnel (including agents, officers, directors, employees, advisors and other representatives), its sub-contractors (if any) and personnel of its sub-contractors comply with all terms and conditions of this bid. In the event that the OCJ allows a bidder to make use of sub-contractors, such sub-contractors will at all times remain the responsibility of the bidder and the OCJ will not under any circumstances be liable for any losses or damages incurred by or caused by such sub-contractors.

37 CONFIDENTIALITY

- 37.1 Except as may be required by operation of law, by a court or by a regulatory authority having appropriate jurisdiction, no information contained in or relating to this bid or a bidder's tender(s), will be disclosed by any bidder or other person not officially involved with the OCJ's examination and evaluation of a tender.
- 37.2 No part of the bid may be distributed, reproduced, stored or transmitted, in any form or by any means, electronic, photocopying, recording or otherwise, in whole or in part except for the purpose of preparing a Tender. This bid and any other documents supplied by the OCJ, remain proprietary to the OCJ and must be promptly returned to the OCJ

Request for Proposals for Bid no. OCJ2018/01: Re-advertisement- Appointment of a service provider to provide media monitoring and analysis services for the Office of the Chief Justice for period of thirty-six (36) months

upon request together with all copies, electronic versions, excerpts or summaries thereof or work derived therefrom.

- 37.3 Throughout this bid process and thereafter, bidder(s) must secure the OCJ's written approval prior to the release of any information that pertains to (i) the potential work or activities to which this bid relates; or (ii) the process which follows this bid. Failure to adhere to this requirement may result in disqualification from the bid process and civil action.

38 OFFICE OF THE CHIEF JUSTICE PROPRIETARY INFORMATION

- 38.1 Bidder/s will on their bid cover letter make a declaration that they did not have access to any of the OCJ's proprietary information or any other matter that may have unfairly placed that bidder in a preferential position in relation to any of the other bidder(s).

39 AVAILABILITY OF FUNDS

- 39.1 Should funds no longer be available to pay for the execution of the responsibilities of this bid (RFP OCJ2018/01), the OCJ may terminate the Agreement at its own discretion or temporarily suspend all or part of the services by notice to the successful bidder who shall immediately make arrangements to stop the performance of the services and minimize further expenditure: Provided that the successful bidder shall thereupon be entitled to payment in full for the services delivered, up to the date of cancellation or suspension.



40 PRICING SCHEDULE (Submit full details of the pricing proposal in a separate envelope)

40.1 Remuneration guidelines issued by professional service organisations or regulatory bodies, may be relevant.

Table 7: Price Schedule

Item	Description	Quantity	Price
1)	Online Monitoring		
2)	Broadcast Monitoring		
3)	Print Monitoring		
4)	Social Media Monitoring		
5)	Media Analysis		
6)	Media Archiving		
7)	Other		
8)	Grand Total		