

BID ADVERTISEMENT FORM

Bid description	The supply, delivery and off-loading of petrol and automotive diesel on an "as and when" required basis for a period of three years		
Bid number	NC/DALC/1985		
Name of institution	Department of Agriculture, Environmental Affairs, Rural Development and Land Reform		
The place where goods, works, or services are required	Pixley Ka Seme		
Closing date and time	Date	[14 October 2022	Time 11:00 AM
Contact details	Postal address	Department of Agriculture Private Bag X5018 Kimberley 8300 Attention: Ms A Montse	
	Physical address	Department of Agriculture 162 George Street Kimberley 8300 Attention: Ms A Montse	
	Tel. no.	053 807 7340	
	Fax no.	N/A	
	E-mail address	amontse@ncpg.gov.za	
	Contact person	Patrick Mkosana	082 560 8550
Where bids can be collected	www.agrinc.gov.		
Where bids should be delivered	162 George Street, Kimberley 8300		
Category (refer to annexure A)	N/A		
Sector	Other		
Region	Pixley Ka Seme		
Compulsory briefing session/site visit	Date		
	Time		
	Venue		

PUBLICATION OF AWARD FORM



agriculture, environmental affairs,
rural development and land reform

Department:
agriculture, environmental affairs,
rural development and land reform .
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

PART A INVITATION TO BID

NCP 1 (7/12/11)

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (DEPARTMENT OF AGRICULTURE LAND REFORM REFORM AND RURAL DEVELOPMENT)

BID NUMBER:	NC/DALC/1985	CLOSING DATE:	14 October 2022	CLOSING TIME:	11:00 AM
DESCRIPTION	The supply, delivery and off-loading of petrol and automotive diesel on an "as and when" required basis for a period of three years				
PROJECT NAME	Fodder Bank	FUNDS	CASP		

THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT.

BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (162 GEORGE STREET KIMBERLEY,8301)

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					

	TCS PIN:		OR	CSD No:	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	<input type="checkbox"/> Yes		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	<input type="checkbox"/> Yes	<input type="checkbox"/> No
IF YES, WHO WAS THE CERTIFICATE ISSUED BY?					

AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) AND NAME THE APPLICABLE IN THE TICK BOX	<input type="checkbox"/>	AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)
	<input type="checkbox"/>	A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS)
	<input type="checkbox"/>	A REGISTERED AUDITOR
		NAME:

[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 BELOW]

SIGNATURE OF BIDDER	DATE	
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CAPACITY UNDER WHICH THIS BID IS SIGNED (Attach proof of authority to sign this bid; e.g. resolution of directors, etc.)

TOTAL NUMBER OF ITEMS OFFERED		TOTAL BID PRICE (ALL INCLUSIVE)	
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Description: The supply, delivery and off-loading of petrol and automotive diesel on an “as and when” required basis for a period of three years
 Quotation No.: NC/DALC/1985



BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:		TECHNICAL INFORMATION MAY BE DIRECTED TO:	
DEPARTMENT/ PUBLIC ENTITY		CONTACT PERSON	Patrick Mkosana
CONTACT PERSON		TELEPHONE NUMBER	082 560 8550
TELEPHONE NUMBER		FACSIMILE NUMBER	
FACSIMILE NUMBER		E-MAIL ADDRESS	
E-MAIL ADDRESS			

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 ONLINE	
1.3. BIDDERS MUST REGISTER ON THE CENTRAL SUPPLIER DATABASE (CSD) TO UPLOAD MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS; AND BANKING INFORMATION FOR VERIFICATION PURPOSES). B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.	
1.4. WHERE A BIDDER IS NOT REGISTERED ON THE CSD, MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS MAY NOT BE SUBMITTED WITH THE BID DOCUMENTATION. B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.	
1.5. 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 LEGISLATION OR SPECIAL CONDITIONS OF CONTRACT.	
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 VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.	
2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.	
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID.	
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / 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.	
3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS	
3.1. IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.2. DOES THE BIDDER HAVE A BRANCH IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.3. DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.4. DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA?	<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 OBTAIN A TAX COMPLIANCE STATUS / TAX COMPLIANCE SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.	

REMINDER: PLEASE TAKE NOTE

IT CAME TO THE ATTENTION OF THE DEPARTMENT THAT PREVENTABLE MISTAKES OCCUR IN THE COMPLETION OF YOUR BID DOCUMENTS. THIS LEADS TO YOUR BIDS BEING INVALIDATED AND/OR DISQUALIFIED AND LOSING BBB-EE POINTS.

THE MOST COMMON MISTAKES ARE THE FOLLOWING:

1. COPY OF ID & COMPANY REGISTRATION (CERTIFIED)
2. NON INCLUSION OF ORIGINAL TAX CLEARANCE/SARS PIN
3. THE USE OF CORRECTIONAL FLUID/TAPE
4. THE INCLUSION OF AN UNCERTIFIED COPY OF A SANAS ACREDIDATE BBB-EE CERTIFICATE/ A COPY OF A SWORN BBB-EE AFFIDAVIT
5. THE OMISSION OF A FINAL BID PRICE
6. THE OMISSION OF THE DELIVERY PERIOD
7. PLEASE DOUBLE CHECK YOUR CALCULATIONS AS MISCALCULATIONS LEADS TO UNNECESSARY DELAYS AND MAY ALSO LEAD TO INVALIDATION
8. FAILURE TO SIGN ANY FORM WHERE YOUR SIGNATURE IS REQUIRED, WILL LEAD TO DISQUALIFICATION
9. FAILING TO INCLUDE CSD REGISTRATION OR UNIQUE SUPPLIER NUMBER

THE PRICE QUOTATION BOX IS SITUATED AT TEMOTHUO HOUSE, 162 GEORGE STREET, KIMBERLEY AT THE MAIN ENTRANCE TO THE DEPARTMENT (NOT THE STREET ENTRANCE). PLEASE ENSURE THAT YOUR BIDS ARE DEPOSITED IN THIS BOX BEFORE THE OFFICIAL CLOSING TIME AND DATE OF THE BID.

**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: <u>NC/DALC/1985</u>
Closing Time: <u>11:00 AM</u>	Closing date: <u>[14 October 2022</u>

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)
	1	The supply, delivery and off-loading of petrol and automotive diesel on an “as and when” required basis for a period of three years	R

Required by: *Department of Agriculture, Environmental Affairs, Rural Development and Land Reform*

- At: Kimberley Head Office

- **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** 30 days **YES/NO**

- **If No specify alternative delivery period**

- **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**

2.2.1 If so, furnish particulars:

.....
.....

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

2.3.1 If so, furnish particulars:

.....
.....

3 DECLARATION

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

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

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

3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

Description: The supply, delivery and off-loading of petrol and automotive diesel on an "as and when" required basis for a period of three years
Qoutation No.: NC/DALC/1985



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

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT. I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

NCP6.1

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:

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

1.2 The value of this bid is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable

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	80
B-BBEE STATUS LEVEL OF CONTRIBUTOR	20
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 6.1 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:

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

(Tick applicable box)

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

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

Designated Group: An EME or QSE which is at least 51% owned by:	EME	QSE
	√	√
Black people		
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 MUNICIPAL INFORMATION

Municipality where business is situated:
 Registered Account Number:
 Stand Number:

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

8.9 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:

- (a) The information furnished is true and correct;
- (b) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- (c) 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;
- (d) 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 –
 - disqualify the person from the bidding process;
 - recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - 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;
 - 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
 - forward the matter for criminal prosecution.

WITNESSES

.....

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

DATE:

ADDRESS

.....

GOVERNMENT PROCUREMENT

GENERAL CONDITIONS OF CONTRACT

July 2010

NOTES

The purpose of this document is to:

Draw special attention to certain general conditions applicable to government bids, contracts and orders; and
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.

16. Payment

16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.

16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.

16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.

16.4 Payment will be made in Rand unless otherwise stipulated in SCC.

17. Prices

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

18. Contract amendments

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

19. Assignment

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

20. Subcontracts

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

21. Delays in the supplier's performance

21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.

- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.
- 21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 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:

- the name and address of the supplier and / or person restricted by the purchaser;
- the date of commencement of the restriction
- the period of restriction; and
- 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.

1. 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 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

32. Taxes and duties

32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.

- 32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.

33.National Industrial Participation (NIP) Programme

- 33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.

34 Prohibition of Restrictive practices

- 34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
- 34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.
- 34.3 If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.

SPECIAL CONDITIONS

PROJECT DESCRIPTION: The supply, delivery and off-loading of petrol and automotive diesel on an “as and when” required basis for a period of three years

BID NUMBER: NC/DALC/1985
PROJECT LEADER: Patrick Mkosana
TELEPHONE NUMBER: 082 560 8550

1 LEGISLATION AND REGULATORY FRAMEWORK

1.1 This bid and all contracts emanating there from will be subject to the general conditions of contract issued in accordance with Treasury Regulation 16A published in terms of Public Finance Management Act (PFMA), 1999 (Act 1 of 1999). The special conditions of contract are supplementary to that of the general conditions of contract. Where, however, the special conditions of contract are in conflict with General Conditions of Contract (GCC), the special conditions of contract prevail.

2 EVALUATION CRITERIA

2.1 In terms of regulation 6 of the Preferential Procurement Regulations 2011 pertaining to the Preferential Procurement Policy Framework Policy Act, 2000 (Act 5 of 2000), responsive bids will be adjudicated by the department on the 80/20 preference point system in terms of which points are awarded to bidders on the basis of:

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

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

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

2.3 Bidders are required to complete the preference claim form (NCP 6.1), and submit their original and valid B-BBEE status level verification certificate/sworn affidavit or a certified copy thereof in order to claim the B-BBEE status level points.

- 2.4 The points scored by a bidder in respect of the level of B-BBEE contribution will be added to the points scored for price.
- 2.5 Only bidders who have completed and signed the declaration part of the preference claim form and who have submitted a B-BBEE status level certificate issued by a registered auditor, accounting officer (as contemplated in section 60 (4) of the Close Corporation Act, 1984 (Act no 69 of 1984) or an accredited verification agency will be considered for preference points.
- 2.6 The total points scored will be rounded off to the nearest 2 decimals.
- 2.8 In the event that two or more bids have scored equal total points, the contract will be awarded to the bidder scoring the highest number of points for B-BBEE status. Should two or more bids be equal in all respects, the award shall be decided by drawing of lots.
- 2.9 However, when functionality is part of the evaluation process and two or more bidders have scored equal points including equal preference points for B-BBEE, the contract will be awarded to the bidder scoring the highest for functionality.
- 2.10 A contract may, on reasonable and justifiable grounds, be awarded to a bidder that did not score the highest number in points.
- 2.11 A bidder must not be awarded points claimed for B-BBEE status level of contribution if it is indicated in the bid documents that such a bidder intends sub-contracting more than **25%** of the contract value to any other enterprise that does not qualify for at least the same number of points that the bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 2.12 The Department may, before the bid is adjudicated or at any time require a bidder to substantiate claims it has made with regard to preference.

3 TAX CLEARANCE CERTIFICATE

- 3.1 An original and valid tax clearance certificate issued by the South African Revenue Services (SARS) certifying that the taxes of the bidder are in order must be submitted at the closing date and time, where consortium/joint venture/sub-contractor are involved each party to the association must submit a separate valid original tax clearance certificate.
- 3.2 Failure to submit the original and valid tax clearance certificate will result in the invalidation of the bid.
- 3.3 Copies and/or certified copies of the tax clearance certificate will not be acceptable.
- 3.4 CSD REGISTRATION - Bidders must attach their proof of registration on the National Central Supplier database at the time of applicant or submission of a bid.

4 VALUE ADDED TAX

- 4.1 All bid prices must be inclusive of 15% value-added tax for all VAT vendors.
- 4.2 Failure to comply with this condition will invalidate the bid.

5 SUBMISSION OF BIDS

- 5.1 Bidders must submit the bid in hard copy format (paper document) to the department on or before [**6 October 2022** at **11:00 AM** The hard copy of the bid response will serve as the legal bid document and must be signed in ink. the bid must be delivered to:

DEPARTMENT OF AGRICULTURE, ENVIRONMENTAL AFFAIRS, RURAL DEVELOPMENT AND LAND REFORM
Temothuo House
162 George street
Kimberley
8300

- 5.2 Each bid should be submitted in a separate, sealed envelope or suitable cover on which the name and address of the bidder, the bid number and the closing date must be clearly endorsed.

6 LATE BIDS

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

7 CONTRACT PERIOD

- 7.1 The delivery period of this bid is **15 days** after receipt of an order.

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 may result in the invalidation of such bids.

9 FRONTING

- 9.1 The department 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 and in an honest, fair, equitable, transparent and legally compliant manner against this background the department condemns any form of fronting.
- 9.2 The Department, 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/contractor to conduct business with the public sector for a period not exceeding ten (**10**) years, in addition to any other remedies the Department may have against the bidder/contractor concerned.

10 SUPPLIER DUE DILIGENCE

- 10.1 The Department reserves the right to conduct supplier due diligence prior to final award of the contract or at any time during the contract period. This may include site visits.

11 COMMUNICATION

- 11.1 Supply Chain Management (SCM) may communicate with bidders where clarity is sought after the closing date of the bid and prior to the award of the contract, or to extend the validity period of the bid, if necessary.
- 11.2 Any communication to any government official or a person acting in an advisory capacity for the state in respect of this bid between the closing date and the award of the bid by the bidder is discouraged.
- 11.3 All communication between the bidder and the Supply Chain Management (SCM) must be done in writing (on company's letterhead).

12 OTHER CONDITIONS

- 12.1 If one member of the company is employed by the state, it is a bidder's responsibility to provide the department with an approval documents from their employer's executing authority.
- 12.2 Recent (not older than 3 months) proof of company's address or confirmation from the municipality should be attached. Failure to submit proof of company's address may invalidate your bid.
- 12.3 Bidders must submit copies of identity documents of all directors or shareholders of the company with bid documents at the closing date and time of the bid and failure to do so the bid may not be considered.
- 12.4 The departmental project official/leader must be contacted 1 week prior to delivery.
- 12.5 The use of correction fluid or correction tape and scratching without initialling on bid documents will invalidate your bid.
- 12.6 All items listed on the departmental bill of quantities should be priced or billed for and the total bid price should be transferred to page 2. Inconsistency between the totals will invalidate your bid.
- 12.7 Amending the bill of quantities will invalidate the bid. Clarity can be sought from the project leader for any information regarding the bid to gain a clear understanding of the project before completion and submission of the bid.
- 12.8 The Department reserves the right not to award the tender or accept the lowest tender or any bid.
- 12.9 The Department has a right to award the bid to more than one bidder if the need arises.
- 12.10 The Northern Cape Provincial Supply Chain Management Procurement Policy Framework, approved in December 2018, States that the Provincial Departments must at least spend 60% of their procurement budget on Designated Groups within the province. The Department Reserves the right to award contracts based on the above mentioned framework policy
- 12.11 Latest proof of company registration from Companies Intellectual Property Commission (CIPC) must be submitted in the form of certified copies of the relevant registration.

Description: The supply, delivery and off-loading of petrol and automotive diesel on an "as and when" required basis for a period of three years
Quotation No.: NC/DALC/1985



12.12 In the case of a joint venture, all partners (members) must include their SARS certificates/SARS PIN, a joint venture BBBEE certificate and a joint venture agreement. Parties to a joint venture should complete the following documents separately:

- NCP 4
- NCP 8
- NCP 9

12.13 After the satisfactory delivery of services, payment will be made within 30 days after acceptance and receiving of a valid original tax invoice.

12.14 Supplier must give one week notice prior to deliver.

12.15 Valid proof of Wholesale License Certificate

12.16 Failure to attach these required documents as part of the submission of the bid will render the bid non-responsive.

12.17 Contact person: Patrick Mkosana (Project leader) at 082 560 8550

13 SCOPE OF WORKS

13.1 The contract entails the supply and delivery, of Petrol and Automotive Diesel, on an "as and when" required basis, to dispensing stations of the various research stations and delivery points in the Frances Baard district, for a period of three years. Where required provision should be made at each site for the dispensing of two alternative fuels as indicated in the tender document.

14 PURCHASES ORDERS AND DELIVERIES

14.1 Delivery must take place only from 08:00 am to 15:00pm from Mondays to Fridays. No delivery during public holidays and over weekends will be accepted. Delivery of goods ordered shall take place within 15 days from the date of receipt of order.

14.2 The signing of the delivery note does not mean that the quality of product/service has been accepted, but serves merely as proof that the item has been delivered.

DECLARATION FOR BID DOCUMENT: NC/DALC/1985

I, the undersigned (name, surname & designation)

.....
Hereby accept the conditions stated above.

.....
Signature

.....
Date

Specifications of Contract

The supply, delivery and off-loading of petrol and automotive diesel on an "as and when" required basis for a three-year period (NC/DALC/1985)

1. SPECIFICATIONS FOR DIESEL FUEL OIL

Diesel fuel oil in accordance with the latest issue of SABS Specification No. SANS 342 - Diesel fuels, covering one grade of automotive diesel fuel suitable for use in high-speed compression ignition engines (Diesel high grade: Sulphur 50 ppm or less as per legislation):

2. SPECIFICATIONS FOR PETROL

Unleaded petrol as per latest issue SABS Specification No. SANS 1598 and legislation.

3. STORAGE AND DISPENSING FACILITIES

3.1 Where applicable storage and dispensing facilities must be provided.

3.2 The storage and dispensing facilities referred to in Clause 3.3 above are owned by Department of Agriculture, Environmental Affairs, Land Reform and Rural Development.

3.3 The successful tenderer should in writing at the commencement of the contract confirm that all installations and equipment has been tested and are in good and safe working condition and free of water and leaks. All installations must comply with relevant regulatory and statutory requirements at all times as this may change during the contract term.

3.4 Should there be any conditions governing the provision of the bulk storage tanks and dispensing facilities by tenderers, referred to in Clause 6.1. on a "Free on Loan" basis to the Department of Agriculture, Environmental Affairs, Land Reform and Rural Development, particulars of any such conditions must be furnished in writing.

3.5 At any point of time during the contract the Department of Agriculture, Environmental Affairs, Land Reform and Rural Development should be allowed to take samples for testing to confirm the fuel quality and water content.

3.6 Safety at dispensing facilities.

3.6.1 The successful tenderer shall ensure that all electrical installations at dispensing points adhere to latest issue of the Electrical Machinery Regulations (EMR) and especially to latest issue of EMR 8 (Electrical Machinery in Hazardous Locations), of the OHS act 85 of 1993. Certificates of compliance will be required for the records of the 2.1 appointee of the municipality. Inspections shall be carried out as per EMR 8 (7) and EMR 8 (8).

3.6.2 Appropriate signage at dispensing points is absolutely vital.

3.7 Where applicable, depots should be provided with two fuel dispensing points for the issuing of:

- PETROL - UNLEADED 95 OCTANE
- AUTOMOTIVE DIESEL HIGH GRADE (SULPHUR 50 PPM OR LESS AS PER LEGISLATION)

4. **Your attention is drawn to the following conditions which must be adhered to within fourteen (14) days from the date of receipt of the appointment letter:**

4.1 SANS TEST REPORT

Evidence (in the form of a SANS compliance certificate) to the effect that the diesel fuel oil offered comply with the relevant SANS specifications must be submitted.

4.2 SANS ASSESSMENT CERTIFICATE

A SANS compliance certificate should accompany the bid, upon submission.

5. PRICING INSTRUCTION

Please note that estimated quantities are for evaluation purposes only.

The Retail price of fuel is based on the current ruling Industry Retail List Price, which will be adjusted (in cents per litre) according to a directive issued by the Department of Mineral and

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Qoutation No.: NC/DALC/1985



Energy Affairs, on the first Wednesday of each month.

Tender price should be based on the last fixed price (first Wednesday of the month) before the closing date of the tender. Future payment will be based on actual quantity X rate (equal to wholesale price less the discount offered).

All applicable taxes certainly will include Value Added Tax (VAT), where applicable, and any other taxes as may be imposed through legislation. Whatever the nature of the tax, it should be included in the price submitted

Description: The supply, delivery and off-loading of petrol and automotive diesel on an "as and when" required basis for a period of three years
 Quotation No.: NC/DALC/1985



BILL OF QUANTITIES

The supply, delivery and off-loading of petrol and automotive diesel on an "as and when" required basis for a three-year period (NC/DALC/1985)

BILL OF QUANTITIES

BILL 1: Supply and Delivery of petrol and automotive diesel

Item No	Description	Unit	Qty	Unit Price (excl VAT)	Price Total (excl VAT) R c
1.	50ppm Diesel	rand per litre	2000 - 10 000		
2.	Delivery of 50ppm diesel	rand per kilometer	2000 - 10 000		
3.	50ppm Diesel	rand per litre	10 000 - 20 000		
	Delivery of 50ppm diesel	rand per kilometer	10 000 - 20 000		
3.	50ppm Diesel	rand per litre	20 000 - 50 000		
6.	Delivery of 50ppm diesel	rand per kilometer	20 000 - 50 000		
7.	Unleaded petrol	rand per litre	2000 - 10 000		
10.	Delivery of unleaded petrol	rand per kilometer	2000 - 10 000		
8.	Unleaded petrol	rand per litre	10 000 - 20 000		
11.	Delivery of unleaded petrol	rand per kilometer	10 000 - 20 000		
9.	Unleaded petrol	rand per litre	20 000 - 50 000		
12.	Delivery of unleaded petrol	rand per kilometer	20 000 - 50 000		
13.	Supply, delivery and installation of 2000 litre storage and dispensing facility	1	1		
SUBTOTAL					
15% VAT					
TOTAL					

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SUMMARY

The supply, delivery and off-loading of petrol and automotive diesel on an "as and when" required basis for a three-year period (NC/DALC/1985)

Project Name: Fodder Bank

Funding: CASP

For Employer:

Specification Committee	Name	Signature	Rank	Office	Date
Compiled:	K. LATEGAN	<i>[Signature]</i>	Sgt. Tech	Wington	7/9/2022
Checked:	D. Badenhorst	<i>[Signature]</i>	DD	Kimberley	02/09/22
Checked:	G. P. STEMMER	<i>[Signature]</i>	ENCL: AOD	UPT	07/09/2022
Approved:	T. MONCHO	<i>[Signature]</i>	DD	KIMBERLEY	07/09/2022

Project Office	Name	Signature	Rank	Office	Date
Checked:					

Signature(s)

Name(s)

Capacity

For the Tenderer

(Name and address or organisation)

Date

