Dear Sir / Madam

BID NUMBER: SCM/02/2019/MT

1. The Department of Transport requires the service as described per attached bid invitation and you are requested to complete the bidding documents and to submit it in accordance with the under mentioned stipulations:
   - The bid must be submitted in a sealed envelope with the name and address of the bidder with the number and closing date indicated on the envelope. The envelope must not contain documents relating to any bid other than that shown on the cover of the envelope;
   - Bids submitted per post must be sent per registered mail. The bid must still reach this office before the closing time. Couriered bid documents must be received before the closing date and time failure to do so may invalidate the bid;
   - The attached forms, if completed in detail and returned, will form part of your bid; and
   - Prices must be VAT inclusive and all other expenses/disbursements, and be valid for a period of at least 60 days from closing date.
   - NB: Two Envelope System: for Financial Proposal submit one (1) original hard copy and 1 (one) scanned CD PDF: Annexure B, and for Technical Proposal submit 1 (one) original hard copy and four (4) scanned CD’s PDF: Annexure A. NO HARD COPIES except for both originals. Please separate the technical and financial proposals. No financials must be included in the technical proposal. No determination on financial proposal must be included in the envelope for technical proposal. Kindly make sure you understand this instruction, as failure to adhere will render your bid disqualified.

2. There is no Briefing Session

3. You are advised to acquaint yourself with the contents of the attached general conditions of contract and the checklist.

4. It will be expected of the successful bidder to sign a formal contract at this office within seven (7) days after receiving a letter of acceptance.

5. NB. Kindly take note that this is a two envelope system (technical and financial proposal must be marked and put in separate envelopes). Attached are: Annexure A which will be for technical proposal and Annexure B for financial proposal. Bidders that do not conform to a two envelope system shall be disqualified.

Kind Regards
For DIRECTOR GENERAL: TRANSPORT

DATE: ....................
ANNEXURE A
**PART A**

**INVITATION TO BID**

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

**BID NUMBER:** SCM/02/2019/MT  **CLOSING DATE:** 20 SEPTEMBER 2019  **CLOSING TIME:** 11:00

**DESCRIPTION** APPOINTMENT OF A SERVICE PROVIDER TO DRAFT THE NAIROBI WRECK REMOVAL BILL.

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

**159 FORUM BUILDING**

**CORNER STRUBEN AND BOSMAN STREETS**

**PRETORIA**

**0001**

<table>
<thead>
<tr>
<th>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</th>
<th>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</th>
</tr>
</thead>
<tbody>
<tr>
<td>CONTACT PERSON LINDA SIDUMO</td>
<td>CONTACT PERSON GLORY SEMENYA</td>
</tr>
<tr>
<td>TELEPHONE NUMBER 012 309 3913</td>
<td>TELEPHONE NUMBER 012 309 3499</td>
</tr>
<tr>
<td>FACSIMILE NUMBER</td>
<td>FACSIMILE NUMBER</td>
</tr>
<tr>
<td>E-MAIL ADDRESS: <a href="mailto:SidumoL@dot.gov.za">SidumoL@dot.gov.za</a></td>
<td>E-MAIL ADDRESS: <a href="mailto:SemenyaG@dot.gov.za">SemenyaG@dot.gov.za</a></td>
</tr>
</tbody>
</table>

**SUPPLIER INFORMATION**

<table>
<thead>
<tr>
<th>NAME OF BIDDER</th>
<th>POSTAL ADDRESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>STREET ADDRESS</td>
<td></td>
</tr>
<tr>
<td>TELEPHONE NUMBER CODE NUMBER</td>
<td></td>
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<tr>
<td>CELLPHONE NUMBER</td>
<td></td>
</tr>
<tr>
<td>FACSIMILE NUMBER CODE NUMBER</td>
<td></td>
</tr>
<tr>
<td>E-MAIL ADDRESS</td>
<td></td>
</tr>
<tr>
<td>VAT REGISTRATION NUMBER</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>SUPPLIER COMPLIANCE STATUS</th>
<th>TAX COMPLIANCE SYSTEM PIN:</th>
<th>OR</th>
<th>CENTRAL SUPPLIER DATABASE No: MAAA</th>
</tr>
</thead>
<tbody>
<tr>
<td>B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE</td>
<td>[TICK APPLICABLE BOX]</td>
<td>B-BBEE STATUS LEVEL SWORN AFFIDAVIT</td>
<td>[TICK APPLICABLE BOX]</td>
</tr>
<tr>
<td>☐ Yes ☐ No</td>
<td>☐ Yes ☐ No</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**[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]**

<table>
<thead>
<tr>
<th>ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?</th>
<th>[IF YES ENCLOSE PROOF]</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Yes ☐ No</td>
<td>[IF YES, ANSWER PART B:3 ]</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</th>
</tr>
</thead>
<tbody>
<tr>
<td>IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?</td>
</tr>
<tr>
<td>DOES THE ENTITY HAVE A BRANCH IN THE RSA?</td>
</tr>
<tr>
<td>DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?</td>
</tr>
<tr>
<td>DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?</td>
</tr>
<tr>
<td>IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?</td>
</tr>
</tbody>
</table>

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**

<table>
<thead>
<tr>
<th>1. <strong>BID SUBMISSION:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1. <strong>BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.</strong></td>
</tr>
<tr>
<td>1.2. <strong>ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED—(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.</strong></td>
</tr>
<tr>
<td>1.3. <strong>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.</strong></td>
</tr>
<tr>
<td>1.4. <strong>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).</strong></td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>2. <strong>TAX COMPLIANCE REQUIREMENTS</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>2.1. <strong>BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.</strong></td>
</tr>
<tr>
<td>2.2. <strong>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.</strong></td>
</tr>
<tr>
<td>2.3. <strong>APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE <a href="http://WWW.SARS.GOV.ZA">WWW.SARS.GOV.ZA</a>.</strong></td>
</tr>
<tr>
<td>2.4. <strong>BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.</strong></td>
</tr>
<tr>
<td>2.5. <strong>IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.</strong></td>
</tr>
<tr>
<td>2.6. <strong>WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.</strong></td>
</tr>
<tr>
<td>2.7. <strong>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.”</strong></td>
</tr>
</tbody>
</table>

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:** .................................................................
TAX CLEARANCE CERTIFICATE REQUIREMENTS

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

1. In order to meet this requirement bidders are required to complete in full the attached form TCC 001 “Application for a Tax Clearance Certificate” and submit it to any SARS branch office nationally. The Tax Clearance Certificate Requirements are also applicable to foreign bidders / individuals who wish to submit bids.

2. SARS will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of 1 (one) year from the date of approval.

3. The original Tax Clearance Certificate must be submitted together with the bid. Failure to submit the original and valid Tax Clearance Certificate will result in the invalidation of the bid. Certified copies of the Tax Clearance Certificate will not be acceptable.

4. In bids where Consortia / Joint Ventures / Sub-contractors are involved, each party must submit a separate Tax Clearance Certificate.

5. Copies of the TCC 001 “Application for a Tax Clearance Certificate” form are available from any SARS branch office nationally or on the website www.sars.gov.za.

6. Applications for the Tax Clearance Certificates may also be made via eFiling. In order to use this provision, taxpayers will need to register with SARS as eFilers through the website www.sars.gov.za.
DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state, 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/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 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 attach 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.

<table>
<thead>
<tr>
<th>Full Name</th>
<th>Identity Number</th>
<th>Personal Tax Reference Number</th>
<th>State Employee Number / Pernal Number</th>
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</table>
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

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

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

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

1. GENERAL CONDITIONS

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

- the 80/20 system for requirements with a Rand value of up to R1 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R1 000 000 (all applicable taxes included).

1.2 The value of this bid is estimated to exceed/not exceed R1 000 000 (all applicable taxes included) and therefore the........................system shall be applicable.

1.3 Preference points for this bid shall be awarded for:

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

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

<table>
<thead>
<tr>
<th>POINTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>PRICE</td>
</tr>
<tr>
<td>B-BBEE Status Level of Contribution</td>
</tr>
</tbody>
</table>

Total points for Price and B-BBEE must not exceed 100

1.4 Failure on the part of a bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS) or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or an Accounting Officer as contemplated in the Close Corporation Act (CCA) together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.5 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

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

2.2 "B-BBEE" means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

2.3 "B-BBEE status level of contributor" means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

2.4 "bid" means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;

2.5 "Broad-Based Black Economic Empowerment Act" means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

2.6 "comparative price" means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;

2.7 "consortium or joint venture" means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;

2.8 "contract" means the agreement that results from the acceptance of a bid by an organ of state;

2.9 "EME" means any enterprise with an annual total revenue of R5 million or less.

2.10 "Firm price" means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;

2.11 "functionality" means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;

2.12 "non-firm prices" means all prices other than "firm" prices;

2.13 "person" includes a juristic person;

2.14 "rand value" means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;

2.15 "sub-contract" means the primary contractor's assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;

2.16 "total revenue" bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the Government Gazette on 9 February 2007;
2.17 **trust** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and

2.18 **trustee** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

3. **ADJUDICATION USING A POINT SYSTEM**

3.1 The bidder obtaining the highest number of total points will be awarded the contract.

3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts.

3.3 Points scored must be rounded off to the nearest 2 decimal places.

3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.

3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.

3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

4. **POINTS AWARDED FOR PRICE**

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

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

\[
Ps = 80 \left(1 - \frac{Pt - P\min}{P\min}\right) \quad \text{or} \quad Ps = 90 \left(1 - \frac{Pt - P\min}{P\min}\right)
\]

Where

- \(Ps\) = Points scored for comparative price of bid under consideration
- \(Pt\) = Comparative price of bid under consideration
- \(P\min\) = Comparative price of lowest acceptable bid

5. **Points awarded for B-BBEE Status Level of Contribution**

5.1 In terms of Regulation 5 (2) and 6 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:
<table>
<thead>
<tr>
<th>B-BBEE Status Level of Contributor</th>
<th>Number of points (90/10 system)</th>
<th>Number of points (80/20 system)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>10</td>
<td>20</td>
</tr>
<tr>
<td>2</td>
<td>9</td>
<td>18</td>
</tr>
<tr>
<td>3</td>
<td>8</td>
<td>16</td>
</tr>
<tr>
<td>4</td>
<td>5</td>
<td>12</td>
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<tr>
<td>5</td>
<td>4</td>
<td>8</td>
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<tr>
<td>6</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>7</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>8</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Non-compliant contributor</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

5.2 Bidders who qualify as EMEs in terms of the B-BBEE Act must submit a certificate issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA’s approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates.

5.3 Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.

5.4 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.

5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.

5.6 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.

5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.

5.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.
6. **BID DECLARATION**

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

7. **B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.3.1.2 AND 5.1**

7.1 B-BBEE Status Level of Contribution: .......... = .............. (maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the CCA).

8. **SUB-CONTRACTING**

8.1 Will any portion of the contract be sub-contracted?  YES / NO (delete which is not applicable)

8.1.1 If yes, indicate:
(i) what percentage of the contract will be subcontracted? .................................%
(ii) the name of the sub-contractor? ..............................................................
(iii) the B-BBEE status level of the sub-contractor? ..................................
(iv) whether the sub-contractor is an EME? YES / NO (delete which is not applicable)

9. **DECLARATION WITH REGARD TO COMPANY/FIRM**

9.1 Name of company/firm ...........................................................................................................

9.2 VAT registration number ........................................................................................................

9.3 Company registration number .................................................................................................

9.4 **TYPE OF COMPANY/ FIRM**

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

[TICK APPLICABLE BOX]

9.5 **DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

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

9.6 **COMPANY CLASSIFICATION**

- Manufacturer
- Supplier
- Professional service provider
9.7 Total number of years the company/firm has been in business? ........................................

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

(i) The information furnished is true and correct;

(ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form.

(iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;

(iv) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –

(a) disqualify the person from the bidding process;

(b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;

(c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;

(d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the audi alteram partem (hear the other side) rule has been applied; and

(e) forward the matter for criminal prosecution

**WITNESSES:**

1. ............................................................

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

   SIGNATURE(S) OF BIDDER(S)

2. ..............................................................

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

   DATE: ..............................................

   ADDRESS: .............................................

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.1</td>
<td>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 <em>audi alteram partem</em> rule was applied). The Database of Restricted Suppliers now resides on the National Treasury’s website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>4.2</td>
<td>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 (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>4.3</td>
<td>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?</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

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 ☐ No ☐

4.4.1 If so, furnish particulars:

SBD 8

CERTIFICATION

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

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

.............................................. ..............................................
Signature Date

.............................................. ..............................................
Position Name of Bidder Js365bW
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.
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:__________________________________________________________

(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
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium\(^3\) 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.
10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.................................................
Signature

.................................................
Date

.................................................
Position

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

Js914w 2
ANNEXURE B
## Pricing Schedule

### Professional Services

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Bid Price in RSA Currency <em>(All Applicable Taxes Included)</em></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>The accompanying information must be used for the formulation of proposals.</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Bidders are required to indicate a ceiling price based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project.</td>
<td>R...</td>
</tr>
<tr>
<td>3.</td>
<td><strong>Persons who will be involved in the project and rates applicable (Certified invoices must be rendered in terms hereof)</strong></td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td><strong>Person and Position</strong></td>
<td>Hourly Rate</td>
</tr>
<tr>
<td></td>
<td>R...</td>
<td>R...</td>
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<td></td>
<td>R...</td>
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<td></td>
<td>R...</td>
<td>R...</td>
</tr>
<tr>
<td>5.</td>
<td><strong>Phases according to which the project will be completed, cost per phase and man-days to be spent</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>R...</td>
<td>R... days</td>
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<tr>
<td></td>
<td>R...</td>
<td>R... days</td>
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<tr>
<td></td>
<td>R...</td>
<td>R... days</td>
</tr>
<tr>
<td>5.1</td>
<td>Travel expenses (specify, for example rate/km and total km, class of air travel, etc.). Only actual costs are recoverable. Proof of the expenses incurred must accompany certified invoices.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Description of expense to be incurred</strong></td>
<td>Rate</td>
</tr>
<tr>
<td></td>
<td>R...</td>
<td>R...</td>
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<td>R...</td>
<td>R...</td>
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<tr>
<td></td>
<td>R...</td>
<td>R...</td>
</tr>
</tbody>
</table>

**Total: R...**

**"All applicable taxes" includes value-added tax, pay as you earn, income tax, unemployment insurance contributions and skills development levies."
5.2 Other expenses, for example accommodation (specify, eg. Three star hotel, bed and breakfast, telephone cost, reproduction cost, etc.). On basis of these particulars, certified invoices will be checked for correctness. Proof of the expenses must accompany invoices.

<table>
<thead>
<tr>
<th>DESCRIPTION OF EXPENSE TO BE INCURRED</th>
<th>RATE</th>
<th>QUANTITY</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>R......</td>
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<td></td>
<td>R......</td>
</tr>
<tr>
<td>TOTAL:</td>
<td></td>
<td></td>
<td>R......</td>
</tr>
</tbody>
</table>

6. Period required for commencement with project after acceptance of bid

7. Estimated man-days for completion of project

8. Are the rates quoted firm for the full period of contract?

9. If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index.

"[DELETE IF NOT APPLICABLE]"

Any enquiries regarding bidding procedures may be directed to –

Mr Linda Sidumo  
Senior Procurement Admin Officer  
Tel: 012 309 3913

Or for technical information –

Ms Glory Semenya  
Tel: 012 309 3499
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>
<thead>
<tr>
<th></th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Definitions</td>
</tr>
<tr>
<td>2</td>
<td>Application</td>
</tr>
<tr>
<td>3</td>
<td>General</td>
</tr>
<tr>
<td>4</td>
<td>Standards</td>
</tr>
<tr>
<td>5</td>
<td>Use of contract documents and information; inspection</td>
</tr>
<tr>
<td>6</td>
<td>Patent rights</td>
</tr>
<tr>
<td>7</td>
<td>Performance security</td>
</tr>
<tr>
<td>8</td>
<td>Inspections, tests and analysis</td>
</tr>
<tr>
<td>9</td>
<td>Packing</td>
</tr>
<tr>
<td>10</td>
<td>Delivery and documents</td>
</tr>
<tr>
<td>11</td>
<td>Insurance</td>
</tr>
<tr>
<td>12</td>
<td>Transportation</td>
</tr>
<tr>
<td>13</td>
<td>Incidental services</td>
</tr>
<tr>
<td>14</td>
<td>Spare parts</td>
</tr>
<tr>
<td>15</td>
<td>Warranty</td>
</tr>
<tr>
<td>16</td>
<td>Payment</td>
</tr>
<tr>
<td>17</td>
<td>Prices</td>
</tr>
<tr>
<td>18</td>
<td>Contract amendments</td>
</tr>
<tr>
<td>19</td>
<td>Assignment</td>
</tr>
<tr>
<td>20</td>
<td>Subcontracts</td>
</tr>
<tr>
<td>21</td>
<td>Delays in the supplier’s performance</td>
</tr>
<tr>
<td>22</td>
<td>Penalties</td>
</tr>
<tr>
<td>23</td>
<td>Termination for default</td>
</tr>
<tr>
<td>24</td>
<td>Dumping and countervailing duties</td>
</tr>
<tr>
<td>25</td>
<td>Force Majeure</td>
</tr>
<tr>
<td>26</td>
<td>Termination for insolvency</td>
</tr>
<tr>
<td>27</td>
<td>Settlement of disputes</td>
</tr>
<tr>
<td>28</td>
<td>Limitation of liability</td>
</tr>
<tr>
<td>29</td>
<td>Governing language</td>
</tr>
<tr>
<td>30</td>
<td>Applicable law</td>
</tr>
<tr>
<td>31</td>
<td>Notices</td>
</tr>
<tr>
<td>32</td>
<td>Taxes and duties</td>
</tr>
<tr>
<td>33</td>
<td>National Industrial Participation Programme (NIPP)</td>
</tr>
<tr>
<td>34</td>
<td>Prohibition of restrictive practices</td>
</tr>
</tbody>
</table>
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
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 immoveable 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 contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

21. Delays in the supplier's performance

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

21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.

21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the
supplier’s point of supply is not situated at or near the place where the supplies are required, or the supplier’s services are not readily available.

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

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

22. Penalties

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

23. Termination for default

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

(a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;

(b) if the Supplier fails to perform any other obligation(s) under the contract; or

(c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

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

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

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

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

23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:
(i) the name and address of the supplier and / or person restricted by the purchaser;
(ii) the date of commencement of the restriction
(iii) the period of restriction; and
(iv) the reasons for the restriction.

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

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

24. Anti-dumping and countervailing duties and rights

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

25. Force Majeure

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

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

26. Termination for insolvency

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

27. Settlement of Disputes

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

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

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

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

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

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

28. Limitation of liability

28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;
(a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and
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 (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.
TERMS OF REFERENCE FOR DRAFTING OF NAIROBI WRECK REMOVAL BILL 2019
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INTRODUCTION

a. The Purpose

To appoint a service provider to draft Nairobi Wreck Removal Bill.

b. The Client

The client is the Department of Transport wherein the Project Sponsor is the Project Director: Acting Director, Maritime Transport Policy and Legislation.

BACKGROUND

a. South Africa as a party to a number of marine pollution prevention conventions of the International Maritime Organization (IMO) has an obligation to ensure that they are given full effect by providing an appropriate domestic legislation.

b. The mandate of the IMO, as a United Nations specialized agency, is to promote safe, secure, environmentally sound, efficient and sustainable shipping.

c. This is accomplished by adopting the highest practicable standards of maritime safety, security and prevention of pollution from ships, as well as through consideration of the related legal matters and effective implementation of the IMO’s instruments with a view to their universal and uniform application.

d. South Africa is party to the Nairobi Wreck Removal Convention and has the Wreck and Salvage Act enacted on 1 February 1997 exactly ten years before IMO adopted the Nairobi International Convention on the removal of Wrecks.
3 DISCUSSION

a. The Act is the domestication of the International Convention on Salvage, 1989. Now that South Africa has ratified the treaty (Nairobi Wreck Removal Convention), it has to be incorporated into South Africa’s national Law in keeping with the provisions of the Constitution of the country.

b. According to consulted stakeholders, enabling legislation is inevitably required to give effect to the Nairobi Convention.

c. There is a need to draft a separate legislation to give effect on the Nairobi Convention force of law to avoid any ambiguity that might arise.

4. OTHER LEGISLATIONS TO BE CONSIDERED

Other legislations to be taken into account and not excluding the National Environmental Management Act 107 of 1998, National Ports Act 12 of 2005 and Wreck and Salvage Act 94 of 1996.

5. SCOPE OF WORK PROPOSED

The service providers will be expected to do the following:


b. Provide a list of Regulations.

6. PROJECT DELIVERABLES

The following are deliverables of the project:


c. A Socio Economic Impact Assessment Report (As per DPME Questionnaire).
d. Project Plan, Time and Pricing

7 COMPETENCE AND EXPERTISE REQUIREMENTS

The service provider appointed for the project must collectively satisfy the following minimum requirements:

a. Qualification in Maritime Law including legislative drafting skills;
b. Expertise in International Maritime Law;
c. Maritime Legislation Expert/ Lawyer/ Academic;
d. Demonstrate good knowledge and experience of Maritime Policy and Legislation; and
e. Astute Project Management skills.

8. SUBMISSION OF BID DOCUMENT

a. Bids must be submitted in two (2) separate and individually sealed envelopes, one (1) with the technical proposal and the other pricing.
b. Supporting documents required for compliance including a valid tax clearance certificate and all the supporting documents must be submitted together with the technical proposal.
c. All proposals strictly adhering to the above separation of technical information on a separate sealed envelope and as well as financial costing information on the other and all supporting documents must be sealed in a cover clearly marked separately: "PROPOSAL: DRAFT NAIROBI WRECK REMOVAL BILL 2019".
d. All documents must be in English.
e. All proposals must hold good for the period of 90 days from the date of closing of TOR bid. Only Bidding documents separated will qualify to the next phase.
f. Bid proposals must be deposited at 11:00 on or before 23 February 2019 in the Tender Box at:

The National Department of Transport
Forum Building
Corner of Bosman & Struben Streets
Pretoria
0001

The functionality evaluation Criteria is annexed to the TOR and consists of two (2) Evaluation Matrix’s.

N.B: We are going to use two envelope system; the Bidders are expected to include a separate financial proposal (which included SBD 1 & 3.3) and separate technical proposal.

9. GENERAL CONDITIONS / SPECIAL CONDITIONS

a. Service provider’s attention is drawn to the provisions of the TOR Rules, General Conditions, which are included in this TOR Document.

b. This TOR has been compiled and issued by the Department of Transport.

c. The sole purpose of this document is to assist parties in deciding whether they wish to submit a proposal in response to this TOR.

d. The recipient agrees and undertakes that it will procure and ensure that its directors, officers, employees, agents, representatives and advisors use the TOR only to evaluate, prepare and submit a proposal for the purposes contemplated in this TOR, and for no other purpose.

e. The recipient further undertake not to divulge the contents of, or distribute any copies of this TOR to any other party without prior written consent of the DOT and shall return all copies of this TOR to the department promptly upon request.
f. The service provider further acknowledges that this TOR does not imply or create an expectation to contract with DOT and its purpose therefore is to request proposals.

g. The information contained in this TOR was obtained from DOT and other relevant sources. Neither DOT nor any of their officials, agents, representatives or advisors make any representation, or warranty or give any undertaking, expressed or implied, or accept any responsibility or liability whatsoever as to the content, accuracy or completeness of the information contained in this TOR or any other written, electronic or verbal information made available in connection with the Proposed Transaction, and nothing contained herein is, or shall be relied upon, as an offer capable of acceptance, a promise or representation, whether as to the past or the future.

h. Parties shall accordingly only be entitled to rely on those representations and warranties set forth in the final transaction documentation when and if, such final transaction documents are ultimately agreed and executed, and subject to such limitations and restrictions as may be contained therein.

i. This TOR is not intended to form the basis of a decision to enter into any transaction or any other transaction or investment decision and does not constitute an offer, invitation or an intention to enter into any such transaction, or an intention to enter into any legal relationship with any party.

j. The issuing of this TOR should not be regarded as any form of commitment on the part of DOT to proceed with the Proposed Transaction. Receipt of this TOR does not offer any right on any party. DOT reserves the right in their sole and absolute discretion to terminate any party's participation in the proposed Transaction on notice to the party concerned without liability whatsoever.

k. The DOT is not held liable /accountable for the costs that may be incurred by the Bidders in preparation for their Proposals to the Department.

10. ISSUE OF PROPOSAL

a. This TOR is available at DOT headquarters at Forum Building for collection by service providers from the date specified by an advert.
11. PROJECT LIFE CYCLE AND COMPLETION PERIOD

The whole process must be completed within a period of eight (8) months after the date of signing of the contract. Timeframes for different phases of the Bidding process will be communicated during the Compulsory Briefing session.

12. RATES

a. According to the 23 October 2013 Cabinet Resolution as defined in the National Treasury instruction 01 of 2013/14: Cost Containment measures sub paragraph 4.2; the Consultants (or Service Provider) will only be remunerated on the following rates regime:

i. The "Guidelines for fees" issued by the South Africa Institute of Chartered Accountants (SAICA);

ii. The "Guide on Hourly Fee Rates for Consultants", by the Department of Public Service and Administration (DPSA); or

iii. Based on the body regulating the profession of the Consultant.

14. RULES OF BIDDING

a. A proposal submitted by a company, close corporation, or other legal person must be accompanied by a resolution and/or agreement of the directors or members and be signed by a duly authorised person.

b. A proposal signed by a consortium or joint venture of two or more parties must be accompanied by a signed memorandum of understanding between the parties to such consortium.

c. The cost of preparing proposals and of negotiating the contract will not be reimbursed by the department.

d. The Preferred Service Provider may be required to enter into a Service Level Agreement prior to appointment.

e. Should the contract be cancelled for any reasons, the service would be paid a quantum that is reasonably proportionate to the work that it has done and completed.
f. In the event the Department is convinced that the work or service provided is sub-standard, it reserves the right to cancel and exit from the contract.

g. Domestic hotel accommodation may not exceed R 1 400 per person, per night. (Incl. dinner, breakfast and parking), air travel must be restricted to economy class, and travel claims per kilometre may not exceed the rates approved by the Automobile Association of South Africa.

15. PENALTY REGIME

a. Poor performance will result in penalties that include withholding of a minimum 30% of the total invoice of each affected phase / milestone until it is fixed before the final product is submitted. In the case where the performance has not been improved to the satisfaction of the Department and the final product is handed over, the original amount held back will not be paid over to the Service Provider under any circumstances. On the other hand an improved quality and/or performance, at the satisfaction of the Department, will require the outstanding part of the held back invoice to be paid to the Service Provider in full but with no additional interest.

b. The project milestones / phases are expected to be adhered to. Any deviation must be approved by the Department prior to any commencement of the changes. Failure to do so will result in a 5% non-payment of that particular and/or affected phase(s).

c. Notwithstanding item 24.3 above, failure to meet the deadline as stipulated in item 8 will result in 30% of the total outstanding payments for the project as whole not being paid over to the Service Provider if the poor performance is attributed to the Service Provider unless there is undisputed evidence that the fault lies with the Department.

16. RULES GOVERNING PROPOSAL

a. The Department reserves the right not to be bound to accept any of the proposals submitted and reserves the right to call for the best and final offers from short-listed service providers. Before final selection.
b. The Department also reserves the right to call interviews with short-listed service providers before final selection is done, and to negotiate price with the Preferred Service Providers.

c. The individuals proposed for professional work on the project shall remain on the project unless the Department grants prior permission to change the team composition. Such permission will not be withheld unreasonably.

d. No material or information derived from the provision of the services under the Contract may be used for any purposes other than those of the Department, except where authorized in writing to do so. All information will be held strictly confidential. The successful Service Provider may be required to sign a Confidentiality Agreement with the Department.

e. Copyright of all documents and electronic aids, software programs prepared or developed in terms of the appointment, shall vest in the Department.

f. The Department reserves the right to amend, modify or withdraw this Terms of Reference (TOR) document or amend, modify or terminate any of the procedures or requirements set out herein at any time and from time to time, without prior notice except where required by law, and without liability to compensate or reimburse any Service Provider.

g. Any Briefing Notes which may be issued by the Department to the Preferred Service Providers should be considered as part of this TOR.

h. In the event that negotiations between the Department and the Preferred Service Provider/s fail with regard to the conclusion of a Contract, the Department reserves its right not to appoint the Preferred Service Provider/s without incurring any liability to compensate or reimburse the Preferred Service Provider/s.

i. The Department of Transport reserves the right to cancel the Contract forthwith and to terminate the service of the Service Provider with thirty (30) days' notice, and to do so if the Service Provider becomes unable for any reason whatsoever to implement any of the terms of the Contract due to causes within his/her control, or delay without proper cause. In such an event, the Service Provider shall, when called to do so, hand over to the Department all documents and papers which are related to the project.

j. The Department will also have the right to:
ii. Discontinue the services of the Service Provider at any stage during the project without any obligation to allow the Service Provider to execute the remainder of the project, and to;

iii. Appoint a new Service Provider to execute the remainder of the project, should the Department not be satisfied with the executing of any part of the project by the Service Provider.

iv. Should the Contract be cancelled in terms of paragraph 30.6 above, the quantum of remuneration due to the Service Provider for services rendered prior to the date of the termination of the Agreement shall be determined between the Department and the Service Provider.

v. Neither the Department, nor any of its respective, officers, or employees may make any representation or warranty, expressed or implied in this TOR document, and nothing contained herein is, or shall be relied upon as, a promise or representation, whether as to the past or the future.

k. Firms may ask for clarification on this TOR or any of its Annexures up to close of business forty-eight (48) hours before the deadline for the submission of bids. Any request for clarification must be submitted by email to the Bid Office. Copies of questions and answers will be emailed to all firms that register at the briefing session, without revealing the identity of the source of the questions.

l. Firms may not contact the Department on any matter pertaining to their bid from the time when bids are submitted to the time the Contract is awarded. Any effort by a Service Provider to influence bid evaluation, bid comparisons or award decisions in any manner, may result in rejection of the bid concerned.

m. Bid submission requirements must be completed in sections and appendices provided in the bid document.

n. ALL BIDDERS MUST BE REGISTERED ON THE CENTRAL SUPPLIER DATABASE AT NATIONAL TREASURY. More information in this regards is available on www.ocpo.treasury.gov.za. Proof of registration must be submitted together with the technical proposal.
17. ADDITIONAL INFORMATION

a. Any bidder may be requested at any time to respond to questions and/or provide supplementary documents or information to the Department.
b. You are welcome to provide us with additional information you consider when evaluating your response to this Bid.
c. Prospective Service Providers must at all times comply with the Department’s Supply Chain rules and processes with regard to all projects and payments.

18. SECURITY CLEARANCE

The Department of Transport reserves the right to subject the preferred service provider to security vetting prior to the contract awarded.

19. CONTACT DETAILS

<table>
<thead>
<tr>
<th>Administrative Contact</th>
<th>Technical Contact</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Bidding Office</strong></td>
<td><strong>Project Manager</strong></td>
</tr>
<tr>
<td>Name: Linda Sidumo</td>
<td>Name: Ms Glory Semenyag</td>
</tr>
<tr>
<td><strong>Directorate: Supply Chain Management</strong></td>
<td><strong>Directorate: Maritime Policy and Legislation</strong></td>
</tr>
<tr>
<td>Tel: 012 309 3913</td>
<td>Tel: 309 3499</td>
</tr>
<tr>
<td>E-mail: <a href="mailto:SidumoL@dot.gov.za">SidumoL@dot.gov.za</a></td>
<td>E-mail: <a href="mailto:semenyag@dot.gov.za">semenyag@dot.gov.za</a></td>
</tr>
</tbody>
</table>

Annex 1
Evaluation matrix
Kindly note values to rate the responsiveness of bidders per functionality evaluation criteria element are below the evaluation matrix.

**Evaluation Matrix**

<table>
<thead>
<tr>
<th>Functionality Evaluation Criteria</th>
<th>Weight breakdown</th>
<th>Value</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Knowledge &amp; experience</td>
<td></td>
<td>40</td>
<td></td>
</tr>
<tr>
<td>1.1 Number of years specialising in maritime/marine environment law and in legal drafting reflecting on the CVs of the team.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Previous Experience</td>
<td></td>
<td>40</td>
<td></td>
</tr>
<tr>
<td>2.1 Report from three contactable referees attesting to maritime/marine environment law specialisation.</td>
<td></td>
<td>20</td>
<td></td>
</tr>
<tr>
<td>2.1 Proof of similar projects in government to</td>
<td></td>
<td>20</td>
<td></td>
</tr>
<tr>
<td>3. Project Plan and proposed time frames</td>
<td></td>
<td>20</td>
<td></td>
</tr>
<tr>
<td>Full score total</td>
<td></td>
<td>100</td>
<td></td>
</tr>
<tr>
<td>Functionality points obtained</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The following column contains the values to be used in assessing the bidder’s response to the ToR.

<table>
<thead>
<tr>
<th>Score Values:</th>
<th>1 - Poor</th>
<th>2 - Acceptable</th>
<th>3 - Good</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>4 - Very Good</td>
<td>5 - Excellent</td>
<td></td>
</tr>
</tbody>
</table>

26.3 Proposals that fail to meet the minimum threshold of 65 points for functionality will be disqualified. Thereafter, only the qualifying proposals will be evaluated in terms of the
90/10 Preference Points System where the 90 points are awarded for price and the 10 points are awarded for specific goals as follows:

<table>
<thead>
<tr>
<th>FINAL EVALUATION CRITERIA</th>
<th>POINTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Price</td>
<td>80</td>
</tr>
<tr>
<td>Preference</td>
<td>20</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
</tr>
</tbody>
</table>