



**PUBLIC PROTECTOR
SOUTH AFRICA**

APPOINTMENT OF SERVICE PROVIDERS FOR PANEL OF ATTORNEYS FOR THE PROVISION OF LEGAL SERVICES (PANEL OF ATTORNEYS AND COST CONSULTANTS) TO THE PUBLIC PROTECTOR SOUTH AFRICA (PPSA) FOR A PERIOD OF THREE YEARS.

ISSUED DATE: 07 AUGUST 2024

NON - COMPULSORY BRIEFING SESSION DATE: 15 AUGUST 2024 : 11H00 – 13H00

Platform to be used : Microsoft Teams

Meeting ID: 310 210 977 630

Passcode: 8s4CT8

CLOSING DATE AND TIME OF SUBMISSION OF BID: 29 AUGUST 2024 @11H00

BID VALIDITY PERIOD: 120 DAYS

PART A

SBD1

INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE PUBLIC PROTECTOR SOUTH AFRICA					
BID NUMBER:	PPSA/2024/BID007	CLOSING DATE:	29 AUGUST 2024	CLOSING TIME:	11H00
DESCRIPTION	APPOINTMENT OF SERVICE PROVIDERS FOR PANEL OF ATTORNEYS FOR THE PROVISION OF LEGAL SERVICES (PANEL OF ATTORNEYS AND COST CONSULTANTS) TO THE PUBLIC PROTECTOR SOUTH AFRICA (PPSA) FOR A PERIOD OF THREE YEARS.				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
175 LUNNON STREET					
HILLCREST OFFICE PARK					
HILLCREST					
0083					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Nomusa Malatji		CONTACT PERSON	Tiyane Thuketane	
TELEPHONE NUMBER	(012) 366 7079		TELEPHONE NUMBER	(012) 366 7252	
FACSIMILE NUMBER	N/A		FACSIMILE NUMBER	N/A	
E-MAIL ADDRESS	NomusaM@pprotect.org		E-MAIL ADDRESS	TiyaniT@pprotect.org	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
<i>ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES OFFERED?</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		<i>ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES OFFERED?</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]	
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS					

APPOINTMENT OF SERVICE PROVIDERS FOR PANEL OF ATTORNEYS FOR THE PROVISION OF LEGAL SERVICES (PANEL OF ATTORNEYS AND COST CONSULTANTS) TO THE PUBLIC PROTECTOR SOUTH AFRICA (PPSA) FOR A PERIOD OF THREE YEARS.

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

**PART B
TERMS AND CONDITIONS FOR BIDDING**

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

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

SIGNATURE OF BIDDER:

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

DATE:

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

2. Bidder's declaration

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise, employed by the state? **YES/NO**

2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	Identity Number	Name of State institution

2. Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES/NO**

2.2.1 If so, furnish particulars:

2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract?

YES/NO

2.3.1 If so, furnish particulars:

3 DECLARATION

¹ the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

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

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

..... Signature Date
..... Position Name of bidder

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

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to invitations to tender:

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

1.2 **To be completed by the organ of state**

(a) The applicable preference point system for this tender is the **80/20** preference point system (To be used only if the lowest quotation is equal to or above R30 000)

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and
- (b) Specific Goals.

1.4 **To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
SPECIFIC GOALS	20
Total points for Price and SPECIFIC GOALS	100

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

2. DEFINITIONS

- (a) “**tender**” means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) “**price**” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) “**rand value**” means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) “**tender for income-generating contracts**” means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) “**the Act**” means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

3.1.1 THE 80/20 PREFERENCE POINT SYSTEMS

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

80/20

$$Ps = 80 \left(1 - \frac{Pt - Pmin}{Pmin} \right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

Table 1: Specific goals for the tender and points claimed are indicated per the table below.

Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)

NB: Bidder must submit proof as supporting documents for the point's claimed. None submission may render the points not been awarded to the bidder.

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Historically Disadvantaged individual (HDI)		
Enterprises with ownership of 51% or more by person/s who are black person/s.	10	
Enterprises with ownership of 51% or more by person/s who are women	5	
Enterprises with ownership of 51% or more by person/s who are youth	3	
Enterprise with ownership of 51% or more by person/s with disability	2	
Enterprises with ownership of less than 51% by person/s who are black or less than 51% by person/s who are women or less than 51% by person/s who are youth or less than 51% by person/s with disability	0	
Total	20	

DECLARATION WITH REGARD TO COMPANY/FIRM

4.2. Name of company/firm.....

4.3. Company registration number:

4.4. TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One-person business/sole propriety
- Close corporation
- Public Company
- Personal Liability Company
- (Pty) Limited
- Non-Profit Company
- State Owned Company

[TICK APPLICABLE BOX]

4.5. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

- i) The information furnished is true and correct;

- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
 - (a) disqualify the person from the tendering process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person’s conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted 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, if deemed necessary.

.....

SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME:

DATE:

ADDRESS:

.....

.....

.....

1. BACKGROUND

- 1.1 Public Protector South Africa (PPSA) is a Chapter 9 institution constituted under Section 182 of the Constitution of the Republic of South Africa, in which the PPSA has the power to:
- 1.1.1 Investigate any conduct in state affairs or in the public administration in any sphere of government that is alleged or suspected to be improper or that will result in impropriety or prejudice;
 - 1.1.2 Report on that conduct; and
 - 1.1.3 Take appropriate remedial action.
- 1.2 The PPSA is independent and subject only to the Constitution of the Republic and the law, always impartial and must exercise its powers and perform its functions without fear, favour or prejudice. The PPSA is accountable to the National Assembly and must report on its activities and performance to the National Assembly at least once a year. The PPSA has the power as regulated by the national legislation to investigate any conduct in state affairs, or in the public administration in any sphere of government that is alleged or suspected to be improper or to result in any impropriety or prejudice.

2. OBJECTIVE OF THE BID

- 2.1. To appoint service providers to serve on the panel of attorneys and cost consultants for the provision of legal and related services to PPSA for a period of three (3) years.

3. SCOPE OF WORK

The Public Protector South Africa hereby invites proposals from competent and experienced persons admitted to practice as legal practitioners under the Legal Practice Act, 28 of 2014 (the LPA) with regard to the provisioning of the following services:

3.1 Advisory Services

- 3.1.1 Provision of sound legal opinions and memoranda of advice in all areas of the law and on operational matters;

3.2 Litigation Services

3.2.1 Provision of litigation services, which include but are not limited to: defense of action and opposition of motion proceedings; initiation of action or motion proceedings; dispute resolution; debt recovery; drafting of pleadings related thereto, appointment of counsel; appointment of cost consultants, and ancillary litigation administrative services and related services are listed in 4.2 below.

3.3 Employment Law

3.3.1 Defend and/or initiate all labour related proceedings for PPSA, including but not limited to conducting of disciplinary proceedings, CCMA, Labour Court and Labour Appeals Court proceedings.

3.4 Legal cost validation (herein referred to as Cost Consultants)

3.4.1 Assessment of Service Provider's Bills and Invoices, attend to taxation of Bills of Cost; attend review of Bills of Cost, attend to litigation relating to costs, prepare and render advice on bills and invoices and attend to investigation, reconciliation of Writs and reporting.

3.5 General

3.5.1 The above list is not exhaustive.

4. BID REQUIREMENTS

4.1 The bidder:

- 4.1.1. Must be a qualified and experienced legal practitioner admitted to practice and of good standing with the relevant Provincial Council of the Legal Practice Council.
- 4.1.2. Will be appointed to a panel of service providers to assist the PPSA with legal services on an *ad hoc* basis for specific assignments, at the discretion of the PPSA and will be required to assist the PPSA with legal services in, amongst others, the areas listed here under.

4.2. Accordingly, the bidder must have appropriate knowledge in the following:

- 4.2.1 General Litigation;
- 4.2.2 Administrative and Constitutional law;
- 4.2.3 Labour law and employment relations;
- 4.2.4 Alternative dispute resolution;
- 4.2.5 Commercial, contract and corporate law;
- 4.2.6 Public Procurement Law; and
- 4.2.7 or Professional cost consultancy services³.

- 4.3. The service provider or practitioner must be a firm of attorneys incorporated or registered as such in the Republic of South Africa;
- 4.4. The firm's partners and/or directors must be in good standing with their professional body (the Legal Practice Council) and must each be in possession of a valid Fidelity Fund Certificate.

3 Legal cost consultants with right of appearance in terms of the LPA, **must** indicate where they are only bidding for the provisioning of legal cost consultancy services, including

- a) Mark, Inspect, Verify & Assess invoices, statements of account and bills (Taxing)
- b) Formal Objections to bill of costs
- c) Negotiation/Settlement
- d) Delivery of settled or taxed bill of costs
- e) Draw Bills of Costs

- 4.5 The successful service provider undertakes to provide the PPSA with relevant continuous legal education and training, on reasonable notice, including but not limited to the provision of seminars, lectures, newsletters, workshops and regular legislative, case law and other updates. The service provider shall provide training, skills transfer and skills development at **NO** cost to the PPSA.

EVALUATION: The bid will be evaluated in three (3) phases as outlined below:

5.1 Phase 1 evaluation:

5.1.1. Mandatory requirements:

To be eligible for appointment to the panel an individual/organisation must:

- 5.1.1.1 Must be in good standing with the South African Revenue Services (SARS), and evidence thereof must be supplied. Please submit unique security personal identification number (PIN) from SARS or a copy of your Central Supplier Database (CSD) registration summary report indicating tax compliance.
- 5.1.1.2 The bidder must be registered with a relevant Law Society and/or Legal Practice Council (Submit valid letter of good standing issued by the Law Society in question).
- 5.1.1.3 All partners/directors must be in a possession of a valid Fidelity Fund Certificate, the current and valid certificate must be attached to the bid documents (Bidders must note that the Fidelity Fund certificate, must always be renewed and may be requested by the PPSA at any time during the subsistence of the Panel).
- 5.1.1.4 The bidder must submit a signed confirmation letter on their official/company letterhead indicating that they accept the PPSA rates as outlined in the pricing schedule. The PPSA rates are attached to this invitation. **Annexure - A**
- 5.1.1.5 Locality: The legal services will be rendered in all nine (9) Provinces of the Republic of South Africa. The PPSA reserves the right to limit the number of firms appointed to the Panel per geographical area. The bidders must indicate the Provinces which they prefer (have a registered office in) to work in since the geographic location will also be an important practical and cost-effective consideration in the allocation of work. The bidders should indicate their preferred Provinces in the table provided below .

GEOGRAPHICAL AREAS WHERE SERVICES ARE TO BE RENDERED ARE AS FOLLOWS:

Item No.	Province	Place of Business (Physical Address)	Capacity /Skills per Office	Contact Person	Office Number/Mobile Number	Email Address
1	Eastern Cape					
2	Free State					
3	Gauteng					
4	Kwazulu Natal					
5	Limpopo					
6	Mpumalanga					
7	Northern Cape					
8	North West					
9	Western Cape					

5.2 Phase 2 evaluation:

5.2.1 Administrative compliance: Bidders must ensure that they complete and sign documents as indicated below, and the documents must be submitted as part of the bid document by the closing date and time:

5.2.1.1 Signed SBD 1: Invitation to Bid

5.2.1.2 Signed SBD 4: Bidders disclosure.

5.2.1.3 Signed SBD 6.1: Preference Points claim form in terms of the Preferential Procurement Regulations 2022.

5.2.1.4 Submit proof for the points claimed under specific goals.

6. Phase 3 evaluation:

6.1. FUNCTIONALITY REQUIREMENTS

Bidders must score at least 60 points out of 100 points on functionality to be considered and form part of the PPSA Panel of Attorneys and/or Cost Consultants. A bidder who scores less than 60 points on functionality will be regarded as a non-responsive submission.

Bidders bidding for Panel of Attorneys AND Cost Consultancy , will be evaluated using this criteria below:

Item No	Evaluation Criteria	Description	Weight (%)
1.	Bidder Experience	The bidder MUST have experience of services rendered and demonstrate the capacity and ability to carry instructions.	30
		Please attach a company profile, clearly indicating a list of projects that demonstrate the specialisation and relevant experience in each respective area:	
		(1) General Litigation;	
		(2) Administrative and Constitutional law;	
		(3) Labour law and employment relations;	
		(4) Alternative dispute resolution;	
		(5) Commercial, contract and corporate law;	
		(6) Public Procurement Law; and/ or	
		(7) Preparation and taxation of statement and bills of cost (and related services)	
		Scoring Allocation	
		1.1.(a)Skills	
		· Experience in one (1) of disciplines = 0 points	
		· Experience in two (2) or more of disciplines = 3 points	
		· Experience in three (3) or more of disciplines = 6 points	
		· Experience in four (4) or more of disciplines = 9 points	
		· Experience in five (5) or more of disciplines = 12 Points	
		· Experience in six (6) or more of disciplines = 15 points	
1.1. (b)Experience (post admission)			
· Less than 1 years' experience = 0 points			
· 1 - 2 years' experience = 3 point			
· 2 - 3 years' experience = 6 points			
· 3 – 5 years' experience = 9 points			
· 5 – 10 Years' = 12 points			
· 10 years' or more experience = 15 points			

2.	Client References	<p>The bidder must provide a positive written contactable reference letter indicating any work or project done or completed as listed in section 4.2 of this specification document. The signature date of the reference letter must not be older than three (3) years as at closing date of the bid, even where the work was done in prior years.</p> <p>The reference must be on client's letterhead and MUST include:</p> <ol style="list-style-type: none"> 1. Company name 2. Contact person and contact telephone numbers 3. The letter must be signed by a duly authorized person 4. Reference letters MUST indicate the period when the project was executed. 5. Type and quality of final work delivered. <p>Scoring Allocation</p> <ul style="list-style-type: none"> · 0 reference letter= 0 Points · 1 reference letter = 3 Point · 2 reference letters = 6 Points · 3 reference letters = 9 Points · 4 reference letters = 12 Points · 5 reference letters and more = 15 Points <p>NB: Reference letters will be inextricably linked to experience</p>	15
3.	Experience and qualifications of the Company Lead/ Partner or Director	<p>Please provide a detailed CV outlining relevant experience IN PRACTICE and qualifications of the Company Lead/ Partner or Director who will be directly involved in providing the required services, specifying areas of specialisation as referred to in 4.2 above. The CV must only reflect experience related to the area of specialisation bidded for.</p> <p>Attach certified (not older than six months) copies of qualifications. NB qualifications and experience provided MUST be the same as listed on the CV. Where there is more than one 1(one) Director, bidders may submit CV's of all Directors, that fall within the chosen area of specialisation.</p> <p>Scoring Allocation</p> <ol style="list-style-type: none"> 1. No experience and qualifications = 0 points 2. Fewer than 3 years' experience, including qualifications = 5 point 3. Three up to 5 years' experience, including qualifications = 10 points 4. Five up to 7 years' experience, including qualifications = 15 points 5. Seven up to 10 years' experience, including qualifications = 20 points 6. More than 10 years' experience and above including qualifications = 25 points 	25

4	Experience of the Team Member (s)	Provide detailed CVs outlining experience and Certified Admission Certificate (not older than 6 months) of team member (s) in the Firm of Attorneys.	20
		· No experience and qualifications = 0 points	
		· Number of admitted practitioners per area of specialisation - 0 -1= 4 points	
		· Number of admitted practitioners per area of specialisation - 2 - 4 = 8 points	
		· Number of admitted practitioners per area of specialisation - 5 -7= 12 points	
		· Number of admitted practitioners per area of specialisation - 8 -10= 16 points	
5	Capacity	The bidder MUST have adequate capacity for training, skills transfer and skills development	10
		Bidders must submit a brief proposal for training, skills transfer and skills development strategy or plan on a company letterhead. (the proposal must not be more then 3 pages, there is no prescribed format)	
		Scoring Allocation	
		· No / insufficient proposal attached = 0 points	
		· Proposal indicating training, skills transfer, skills development strategy or plan = 5 points	
· Company profile reflecting adequate staff complement, electronic resources and infrastructure = 5 points			
TOTAL POINTS The minimum qualifying score for functionality is 60 points. All bids that fail to achieve the minimum qualifying score on functionality shall not be considered to form part of PPSA panel of attorneys and cost consultants.			100

Bidders bidding for Cost Consultancy ONLY, will be evaluated using this criteria below:

Item No	Evaluation Criteria	Description	Weight (%)
1.	Bidder Experience	The bidder MUST have experience of services rendered and demonstrate the capacity and ability to carry instructions.	30
		Please attach a company profile that includes a list of projects that demonstrate relevant experience in Cost Consultancy.	
		(1) Preparation and taxation of statement and bills of cost (and related services) - which includes :	
		a) Mark, inspect, verify and assess invoices, statements of account and bills (Taxing)	
		b) Formal objections to bill of costs	
		c) Negotiation / Settlement	
		d) Delivery of settled or taxed bill of costs	
		e) Draw Bills of Costs	
		Scoring Allocation	
		1.1.(a) Skills	
		· Skills and experience in attending to Party and Party bill of costs - Yes = 3 points, No = 0 points	
		· Skills and experience to mark, check, verify and assess legal invoices, statement of account and bills (Tax) - Yes = 3 points, No = 0 points	
		· Skills and experience in negotiation and settlement - Yes = 3 points, No = 0 points	
		· Skills and experience to attend to taxations - Yes = 3 points, No = 0 points	
		· Skills and experience in drawing and taxing bills of costs - Yes = 3 points, No = 0 points	
		1.1. (b) Experience as a Cost Consultant	
		· Less than 1 years' experience = 0 points	
		· 1 - 2 years' experience = 3 point	
		· 2 - 3 years' experience = 6 points	
		· 3 – 5 years' experience = 9 points	
· 5 – 10 Years' = 12 points			
· 10 years' or more experience = 15 points			

2.	Client References	<p>The bidder must provide a positive written contactable reference letter indicating any work or project done or completed as listed in (1) above of the evaluation criteria. The signature date of the reference letter must not be older than three (3) years as at closing date of the bid, even where the work was done in prior years.</p> <p>The reference must be on client's letterhead and MUST include:</p> <ol style="list-style-type: none"> 1. Company name 2. Contact person and contact telephone numbers 3. The letter must be signed by a duly authorized person 4. Reference letters MUST indicate the period when the project was executed. 5. Type and quality of final work delivered. <p>Scoring Allocation</p> <ul style="list-style-type: none"> · 0 reference letter= 0 Points · 1 reference letter = 3 Point · 2 reference letters = 6 Points · 3 reference letters = 9 Points · 4 reference letters = 12 Points · 5 reference letters and more = 15 Points <p>NB: Reference letters will be inextricably linked to experience</p>	15
3.	Experience and qualifications of the Company Lead/ Partner or Director	<p>Please provide a detailed CV outlining relevant experience IN PRACTICE and qualifications of the Company Lead/ Partner or Director who will be directly involved in providing the required services, specifying areas of specialisation as referred to in 1 above. The CV must only reflect experience related to the area of specialisation bid for.</p> <p>Attach certified (not older than six months) copies of qualifications. NB qualifications and experience provided MUST be the same as listed on the CV. Where there is more than one 1(one) Director, bidders may submit CV's of all Directors, that fall within the chosen area of specialisation.</p> <p>Scoring Allocation</p> <ol style="list-style-type: none"> 1. No experience and qualifications = 0 points 2. Fewer than 3 years' experience, including qualifications = 5 point 3. Three up to 5 years' experience, including qualifications = 10 points 4. Five up to 7 years' experience, including qualifications = 15 points 5. Seven up to 10 years' experience, including qualifications = 20 points 6. More than 10 years' experience and above including qualifications = 25 points 	25

4	Experience of the Team Member (s)	Provide detailed CVs outlining experience and Certified Admission Certificate (not older than 6 months) of team member (s) in the Firm of Attorneys.	20
		· No experience and qualifications = 0 points	
		· Number of admitted practitioners per area of specialisation - 0 -1= 4 points	
		· Number of admitted practitioners per area of specialisation - 2 - 4 = 8 points	
		· Number of admitted practitioners per area of specialisation - 5 -7= 12 points	
		· Number of admitted practitioners per area of specialisation - 8 -10= 16 points	
5.	Capacity	The bidder MUST have adequate capacity for training, skills transfer and skills development	10
		Bidders must submit a brief proposal for training, skills transfer and skills development strategy or plan on a company letterhead. (the proposal must not be more then 3 pages, there is no prescribed format)	
		Scoring Allocation	
		· No / insufficient proposal attached = 0 points	
		· Proposal indicating training, skills transfer, skills development strategy or plan = 5 points	
· Company profile reflecting adequate staff complement, electronic resources and infrastructure = 5 points			
TOTAL POINTS			100
The minimum qualifying score for functionality is 60 points. All bids that fail to achieve the minimum qualifying score on functionality shall not be considered to form part of PPSA panel of attorneys and cost consultants.			

7. Remuneration and allocation of work, instructions and assignments

7.1. Bidders shall consider that the PPSA's total requirements will not be allocated to one bidder.

7.2. The firm of Attorneys or cost consultants MUST include their Fee Structure under the following categories:

Category	Post Admission Experience	Hourly Rate
Senior Director	10 Years and Above	R
Director	7 to 9 Years	R
Senior Associate	4 to 6 Years	R
Associate	1 to 3 Years	R
Candidate Attorney	0	R

7.3. The firm of Attorneys acknowledges that the firm of Attorneys Fee Structure as per the above is indicative only and not binding on the PPSA but **MUST** be submitted with its Bid.

7.4. Accordingly, the successful firm of Attorneys will be remunerated for services rendered to the PPSA, as per the Service Level Agreement, in accordance with the approved PPSA Tariff of Fees for litigious matters. The said Tariff of Fees is non-negotiable.

7.5. The service providers for non-litigious matters and cost consultancy services will be remunerated as per the Service Level Agreement between the parties and will be fixed for the subsistence of the agreement.

7.6. The PPSA Tariff of Fees may be reviewed and aligned to any changes to the tariffs for legal practitioners issued in terms of the Uniform Rules of Court .

7.7. In the event of predetermined rates that are standardised, allocation of instructions will be done on a fair distribution of work per discipline which is subject to the performance of the Bidder as monitored by the PPSA.

7.8. As far as practically possible, quotations or cost estimates will be sourced from service providers on the panel before the allocation of an assignment, including Counsel rates , where applicable.

PART B: CONDITIONS OF BID

8. Company profile

- 8.1 Bidders must furnish the following information clearly indicated per annexure regarding their company as part of the bid. Where not applicable, it must clearly be indicated as such:
- 8.1.1 Personnel complement, divided into -
 - 8.1.1.1 Management personnel;
 - 8.1.1.2 Supervisors; and
 - 8.1.1.3 Workers. Full time: Part time:
 - 8.1.2 Composition in terms of shareholding
 - 8.1.3 Address of Head Office.
 - 8.1.4 Addresses of regional offices/branches
 - 8.1.5 Bidders to indicate the date from when the company commenced its operations.
 - 8.1.6 Bidders to provide the details of completed contracts for the provision of legal services including the signed reference letters / contracts which were successfully completed within the past three (3) years, e.g. names of clients, contract period and value, and the names and telephone numbers of the persons with whom contact can be made for reference purposes.
 - 8.1.7 Bidders to indicate their company financial position i.e. annual turnover.
 - 8.1.8 Bidders to submit the names, postal address and telephone number(s) of banker(s) and the name of the contact person where financial enquiries may be answered.
 - 8.1.9 Bidders to submit the name, address and telephone number of auditor(s) and the name of the contact person where financial enquiries may be answered.
 - 8.1.10 Bidders to indicate the name, identity numbers and street addresses of all partners must be indicated where persons, who are a partnership or a company / Joint Ventures / Consortium comprising a partnership, quote.

Other bid requirements

- 9.1 The PPSA reserves the right to disqualify any bidder who does not comply with any one or more of the required information as indicated below:
 - 9.1.1 If the bidder/s submit their bids without all the data and information requested.
 - 9.1.2 A proposal that did not submit mandatory documents stipulated in the RFP document;
 - 9.1.3 A proposal that fails to comply with the specification.
 - 9.1.4 A proposal that contains any information that is found to be incorrect or misleading in anyway or Bidders who submit information that is fraudulent, factually untrue or inaccurate information.
 - 9.1.5 Bidders who submit incomplete information and documentation according to the requirements of this RFP document.
 - 9.1.6 Bidders who receive information not available to other potential bidders through fraudulent means.
 - 9.1.7 The PPSA may at its own discretion vary an instruction to include more work.
 - 9.1.8 Panel members are not guaranteed any work under this RFP
 - 9.1.9 Bidders may not cede or assign any part of its agreement with the PPSA nor subcontract any part of the work assigned to them after the appointment has been made.
 - 9.1.10 A service provider must declare any interest it has in an assignment.
 - 9.1.11 In the event that any conflict of interest is discovered during an assignment, the PPSA reserves the right to summarily cancel the agreement and demand that all information, documents and property of the PPSA be returned forthwith.

10. Panel utilization guide

- 10.1 The panel and Subpanels will consist of bidders that reach 60 points threshold on functionality;
- 10.2 Bidders will be notified of their appointment to the Panel/ Subpanel(s) for the area(s) of specialisation as specified, by means of an official letter of appointment issued by the PPSA Supply Chain Management Department. No other communication in any form from any other official shall constitute a valid appointment to the Panel;

- 10.3 Once the panel/list of service providers has been approved, only the successful panel members are approached, depending on the circumstances, either by obtaining quotes on a rotation basis, or according to the bid procedure when services are required with further functional (technical) evaluation conducted from additional information that may be requested from service providers within a panel or subpanel with the exception that the requirement is not advertised in the Government Tender Bulletin again. Further functional evaluation may be conducted in the selection process. Service providers will be evaluated on the 80/20 preference point system
- 10.4 Assignments will be structured as work packages that clearly define the scope and objective of work, proposed timeframes, qualifying criteria, qualification requirements, expected duration (hours), and expected deliverables amongst others;
- 10.5 The selection of service providers from the panel for the RFP process will be guided by the specific service required;
- 10.6 Bidders will be notified of a broad brief or assignment to render services for a particular scope/matter falling within the area(s) of specialisation, by means of an official brief.
- 10.7 Panel members will have to respond to the RFP, indicating their availability and their hourly rate. The hourly rates must be equal or less than the fees stated in the contract; (Auditor-General: Guideline on fees). The PPSA reserves the right to negotiate hourly charge-out rates/quote submitted by bidders.
- 10.8 Service providers will be evaluated on the 80/20 preference point system using the formula set out in SBD6.1 above and the specific goals set out in paragraph 4.1.
- 10.9 There is no guarantee that a service provider on the panel will be contracted for a specific work assignment during the tenure of this contract;
- 10.10 The PPSA may withdraw a bidder from the appointed panel due to poor performance;
- 10.11 This is a non-exclusive panel and the PPSA may at its sole discretion, source services outside the panel.

11. The PPSA reserves the right:

- 11.1 Not to award or cancel this bid at any time.
- 11.2 To negotiate with one or more Preferred or Reserved Bidders identified in the evaluation process, regarding any terms and conditions, including price, without offering the same

opportunity to any other Bidder who has not been awarded the status of the Preferred or Reserved Bidder.

- 11.3 To award this bid in part or in full.
 - 11.4 To award this bid to one or more bidders.
 - 11.5 To cancel and/or terminate the bid process at any stage, including after the Closing Date and/or after presentations have been made, and/or after bids have been evaluated and/or after the Preferred Bidders have been notified of their status as such.
 - 11.6 To carry out explanatory meetings in order to verify the nature and quality of the services bid for, whether before or after adjudication of the bid at bidder's corporate offices and / or at client sites if so required.
 - 11.7 To award the bid to a Bidder who is not the highest scoring Bidder.
 - 11.8 To correct any mistakes at any stage of the bid that may have been in the bid documents or occurred at any stage of the bid process.
 - 11.9 The PPSA is entitled to amend any bid conditions, bid validity period, specifications, or extend the bid closing date, all before the bid closing date. All bidders, to whom the bid documents have been issued and where the PPSA has record of such bidders, may be advised in writing of such amendments in good time and any such changes will also be posted on the PPSA's website under the relevant quotation information. All prospective bidders should therefore ensure that they visit the website regularly and before they submit their bid response to ensure that they are kept updated on any amendments in this regard.
 - 11.10 The PPSA reserves the right not to accept the lowest priced bid or any bid in part or in whole. It normally awards the contract to the bidder who proves to be fully capable of handling the contract and whose bid is functionally acceptable and/or financially advantageous to the PPSA.
 - 11.11 The PPSA reserves the right to request all relevant information, agreements and other documents to verify information supplied in the bid response.
 - 11.12 The bidder hereby gives consent to the PPSA to conduct background checks, including FICA verification, on the bidding entity and any of its directors / trustees / shareholders / members
 - 11.13 No attempt may be made, whether directly or indirectly, to canvass any member of the PPSA's employees before the finalisation of the Panel.
 - 11.14 Any enquiries must be referred, in writing, to the specified persons.
-

12. Undertakings by the Bidder

- 12.1 By submitting a bid in response to the RFP, the bidder will be taken to offer to render all or any of the services described in the bid response submitted by it to the PPSA on the terms and conditions and in accordance with the specifications stipulated in this RFP document.
- 12.2 The bidder shall prepare for a possible presentation should the PPSA require such and the bidder shall be notified before the actual presentation date. Such presentation may include a practical demonstration of services as called for in this RFP.
- 12.3 The bidder agrees that the offer contained in its bid shall remain binding upon him/her and receptive for acceptance by the PPSA during the bid validity period indicated in the RFP and calculated from the bid closing hour and date such offer and its acceptance shall be subject to the terms and conditions contained in this RFP document read with the bid.
- 12.4 The bidder furthermore confirms that he/she has satisfied himself/herself as to the correctness and validity of his/her bid response; that the price(s) and rate(s) quoted cover all the work/item(s) specified in the bid response documents; and that the price(s) and rate(s) cover all his/her obligations under a resulting contract for the services contemplated in this RFP; and that he/she accepts that any mistakes regarding price(s) and calculations will be at his/her risk.
- 12.5 The successful bidder accepts full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on him/her under the supply agreement and SLA to be concluded with the PPSA, as the principal(s) liable for the due fulfilment of such contract.
- 12.6 The bidder accepts that all costs incurred in the preparation, presentation and demonstration of the solution offered by it shall be for the account of the bidder. All supporting documentation and manuals submitted with its bid will become PPSA property unless otherwise stated by the bidder/s at the time of submission.

13. Contract period

- 13.1. The start date of the project implementation will be confirmed with the successful bidder upon contract negotiations. The initiative is based on deliverables. The provision of legal services for a period is three years (3) subject to the annual review of the service provider's performance.

14. General terms and conditions of contract

14.1. Bidders must complete the attached the General Terms and Conditions of the contract.

15. Payment terms

15.1 The standard 30 day payment period will apply on upon the receipt of a **valid** invoice.

16. Tax clearance certificate

16.1 Government is committed to reducing supply chain related fraud and ensuring that persons conducting business with the State are not afforded any scope to abuse the supply chain management system.

16.2 It is therefore essential to ensure that persons conducting business with the State are tax compliant when participating in tenders or other bidding processes. On 18 April 2016, the South African Revenue Service (SARS) introduced an enhanced TCS system aimed at improving compliance and making it easier for taxpayers to manage their tax affairs.

16.3 Implementation of the tax compliance status system

16.3.1 In order to comply with the new TCS system and the condition of bids that a successful bidder's tax matters must be in order, Accounting Officers and accounting authorities of all PFMA complaint institutions must:

16.3.1.1 Designate officials, preferably from Supply Chain Management Unit, whose function will be to verify the tax compliance status of a bidder on the South African Revenue Services' Tax compliance status system housed on eFiling.

16.3.1.2 Utilise the SBD1 issued by National Treasury when inviting bids,

16.3.1.3 As a bid condition, accounting officer or accounting authorities must request bidders to register on Government's Central Supplier Database and to include in their bid their Master Registration Number (Supplier Number) in order to enable the institution to verify the supplier's tax status on the Central Supplier Database.

16.4 The CSD and tax compliance status PIN are the approved methods to be used to prove tax compliance as the South African Revenue Services (SARS) no longer issues Tax Clearance Certificates but has made provision online, via e-Filing, for bidders to print their own Tax Clearance Certificates which they can submit with their bids or price quotations.

16.5 Accounting Officers are therefore required to accept printed (delivered electronically) or copies of Tax Clearance Certificates submitted by bidders and verify their authenticity on e-

Filing. The verification result will be filed for audit purposes.

- 16.6 Where a bidder does not submit a tax compliance status PIN but provides a Central Supplier Database (CSD) number, the accounting officer and accounting authority must utilise the CSD number *via* its website www.csd.gov.za to access the supplier records and to verify the bidder's tax compliance status. A printed screen view at the time of verification should then be attached to the supplier's records for audit purposes.

17. Counter Conditions

- 17.1 Bidder's attention is drawn to the fact that amendments to any of this condition of bid bidders may result in the invalidation of the bids.

18. Fronting

- 18.1 The PPSA supports Broad Black Based Economic Empowerment and recognizes that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent and legally compliant manner. Based on the above the PPSA condemns any form of fronting.
- 18.2 The PPSA, in ensuring that bidders conduct themselves in an honest manner will, as part of the bid evaluation processes, will conduct or initiate the necessary enquiries/investigations to determine the accuracy of the representations made in the bid documents. Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the Department of Trade and Industry, be established during such enquiry /investigation, the onus will be on the bidder / contractor to prove that fronting does not exist. Failure to do so within a period of 14 days from date of notification may invalidate the bid/contract and may also result in the restriction of the bidder /contractor to conduct business with the public sector for a period not exceeding ten years. The matter may be reported to the National Prosecuting Authority (NPA) for criminal investigation and charges in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

19. Supplier Performance Management

- 19.1. Supplier Performance Management is viewed by the PPSA as a critical component in ensuring value for money acquisition and good supplier relations between the PPSA and all its suppliers.

- 19.2. The contract management framework for the subsequent engagement of service providers on the panel for the provisioning or rendering of legal services required by the PPSA, comprises the delivery partner (service provider) appointment letter, the relevant Service Level Agreement, PPSA Litigation Protocols and Litigation Strategy, as well as the PPSA Supply Chain Management Procedure Manual.
- 19.3 The successful bidder shall upon receipt of written notification of an award, be required to conclude a Service Level Agreement (SLA) with the PPSA, which will form an integral part of the supply agreement. The SLA will serve as a tool to measure, monitor and assess the supplier's performance and ensure effective delivery of service, quality and value-add to PPSA's business.
- 19.4. Successful bidders will be required to comply with the above-mentioned conditions, and also provide a scorecard on how their product / service offering is being measured to achieve the objectives of these conditions.

20. Screening

- 20.1 Acceptance of this bid may be subject to the condition that the successful bidder must be cleared by the appropriate authorities to render the service within the organ of the state.

21. The PPSA requires bidder(s) to declare

In the Bidder's Technical response, Bidder(s) are required to declare the following:

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

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

22. Conflict of interest, corruption and fraud

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

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

22.1.2 Seeks any assistance, other than assistance officially provided by the PPSA, from any employee, advisor or other representative of the PPSA in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to the PPSA;

22.1.3 Makes or offers any gift, gratuity, anything of value or other inducement, whether lawful or unlawful, to any of the PPSA's officers, directors, employees, advisors or other representatives;

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

22.1.5 Accepts anything of value or an inducement that would or may provide financial gain, advantage or benefit in relation to procurement or services provided or to be provided to the PPSA;

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

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

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

23. Misrepresentation

- 23.1 The bidder should note that the terms of its RFP will be incorporated in the proposed contract by reference and that the PPSA relies upon the bidder's RFP as a material representation in making an award to a successful bidder and in concluding an agreement with the bidder.
- 23.2 It follows therefore that misrepresentations in a quotation may give rise to service termination and a claim by the PPSA against the bidder notwithstanding the conclusion of a Service Level Agreement between the PPSA and the bidder for the provision of the service in question. In the event of a conflict between the bidder's proposal and the Service Level Agreement concluded between the parties, the Service Level Agreement will prevail.

24 Preparation costs

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

25. Indemnity

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

26. Precedence

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

27. Limitation of liability

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

28. Defaulters and restricted suppliers

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

29. Governing Law

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

30. Responsibility for sub-contractors and bidder's personnel

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

31. Confidentiality

31.1 Except as may be required by operation of law, by a Court or by a regulatory authority having appropriate jurisdiction, no information contained in or relating to this bid or a bidder's tender(s) will be disclosed by any bidder or other person not officially involved with the PPSA's examination and evaluation of the RFP..

31.2 No part of the RFP may be distributed, reproduced, stored or transmitted, in any form or by any means, electronic, photocopying, recording or otherwise, in whole or in part except for the purpose of preparing a Tender. This bid and any other documents supplied by the PPSA

remain proprietary to the PPSA and must be promptly returned to the PPSA upon request together with all copies, electronic versions, excerpts or summaries thereof or work derived there from.

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

32. Proposal documents

32.1. No bids submitted by Facsimile, telegram, email will be considered. It is the bidder's sole responsibility to ensure that the complete bid has been received by the closing date and time. Giving the bid to a courier prior to the Closing Date without actual receipt by PPSA before the Closing Date and Time will not excuse the late delivery of a bid.

32.2. If a courier service company is being used for delivery of the bid response, the bid description must be endorsed on the delivery note/courier packaging and the courier must ensure that documents are placed / deposited into the bid box. **The PPSA will not be held responsible for any delays where bid documents are handed to the PPSA Receptionist, switchboard operator or security personnel.**

32.3. Where a bid response is not in the bid box at the time of the bid closing, such a bid document will be regarded as a late bid. **It is the PPSA's policy not to consider late bids for tender evaluation.**

32.4. All documents and correspondence must be in English, failure to comply, the bid proposal will not be evaluated.

32.5. Proposals must be compiled in the following manner:

32.5.1. One (1) original proposal (marked 'original') must be submitted and should not be retyped and one electronic copies (on USB)

32.5.2 Two (2) copies of the proposal (marked 'copy') must be submitted;

32.5.3 All Annexures, company profiles, CV's, shall form part of the '**ORIGINAL**' as well as the '**COPY**' proposals.

32.5.4 All proposals must be delivered **sealed**. The following information shall appear on the outside of the sealed proposal be placed in the bid box at the Main Reception area at, 175 Lunnon Street, Hillcrest Office Park, Hillcrest, Pretoria:

32.5.4.1 Name of bidder;

32.5.4.2 Description of proposal;

32.5.4.3 Bid / tender number;

32.5.4.4 Closing date and time;

32.5.4.5 The name and address of the Bidder must be written on the front or back side of the proposal/envelope.

32.5.5. Bids submitted by bidders which are, or are comprised companies must be signed by a person or persons duly authorised thereto by a resolution of the applicable Board of Directors, a copy of which Resolution, duly certified, must be submitted with the bid.

32.5.6 The bidder should check the numbers of the pages of its bid to satisfy itself that none are missing or duplicated. No liability will be accepted by PPSA in regard to anything arising from the fact that pages of a bid are missing or duplicated.

33. Consultation prior to submission of the bid documents

Bidders shall consult, **in writing**, with the PPSA's officials indicated below should there appear to be any discrepancy, ambiguity or uncertainty pertaining to the meaning or effect of any description, dimension, quality, quantity or any other information contained in this bid. The PPSA undertakes to provide clarification in writing to all Bidders, provided that the request is received prior to the closing date and time for clarifications.

Officials	Location	Contact Details
Tiyani Thuketane / Nomusa Malatji	Public Protector South Africa 175 Lunnon Street Hillcrest Office Park Pretoria	Tel: 012 366 7079 / 7252 Email: TiyaniT@pprotect.org NomusaM@pprotect.org

34. Clarifications and communication

- 34.1. Bidders are encouraged to submit clarification questions in writing to the PPSA officials mentioned above not later than **11H00 on the 22 AUGUST 2024**. No further questions will be entertained after this period.
- 34.2. While all due care has been taken in connection with the preparation of this bid, the PPSA makes no representations or warranties that the content of the bid or any information communicated to or provided to Bidder(s) during the bidding process is, or will be, accurate, current or complete. The PPSA, and its employees and advisors will not be liable with respect to any information communicated which may not be accurate, current or complete.
- 34.3. If Bidder(s) finds or reasonably believes it has found any discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by the PPSA (other than minor clerical matters), the Bidder(s) must promptly notify the PPSA in writing of such discrepancy, ambiguity, error or inconsistency in order to afford the PPSA an opportunity to consider what corrective action is necessary (if any).
- 34.4. Any actual discrepancy, ambiguity, error or inconsistency in the bid or any other information provided by the PPSA will, if possible, be corrected and provided to all Bidder(s) without attribution to the Bidder(s) who provided the written notice.
- 34.5. All persons (including Bidder(s)) obtaining or receiving the RFP and any other information in connection with the RFP process must keep the contents of the Bid and other such information confidential, and not disclose or use the information except as required for the purpose of developing a proposal in response to this Bid.
- 34.6. The PPSA will respond in writing to queries and distribute to all bidders who attended the briefing session after receipt of questions. This provision is ONLY applicable where a briefing session has been arranged by the PPSA.
- 34.7. The PPSA may respond to any enquiry in its absolute discretion and the bidder acknowledges that it will have no claim against the PPSA on the basis that its bid was disadvantaged by lack of information, or inability to resolve ambiguities.
- 34.8. Oral communication or instruction by the PPSA or its representative shall have no standing

in this bid unless and until they have been confirmed in writing.

- 34.9. The PPSA accepts no responsibility for the failure of any bidder not receiving notifications or correspondence relating to this bid.

35 BIDDER DECLARATION

The bidder hereby declares the following:

We confirm that _____ Bidder’s Name) will:

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

Signature: _____ **Date:** _____

Print Name of Signatory: _____ Designation _____

FOR AND ON BEHALF OF _____

CONTENTS OF THIS DOCUMENT IS NOTED:

SERVICE PROVIDERS INITIALS / SIGNATURE Important: Failure to complete/sign/initial this document in original ink will invalidate your RFP!! Failure to sign/initial any alterations or corrections made may also invalidate your RFP!! The use of any correction fluid, tape or similar products may invalidate your RFP submission!

ANNEXURE – A



ANNEXURE - A

PUBLIC PROTECTOR TARIFF OF FEES FOR THE APPOINTMENT OF SERVICE PROVIDERS FOR THE PROVISIONING OF LEGAL AND RELATED SERVICES (PANEL OF ATTORNEYS AND COST CONSULTANTS) FOR A PERIOD OF THREE (3) YEARS (2024-2027)

ITEM	DESCRIPTION	UNIT	GENERAL	ATTORNEY	CANDIDATE
A	CONSULTATIONS, APPEARANCES, CONFERENCES, AND INSPECTIONS:				
			R	R	R
A - 01	Consultation with a client and witnesses to institute or defend an action, for advice on evidence or commission, for obtaining an opinion or advocate's guidance in preparing pleadings, incl. exceptions, and to draft a petition or affidavit.	Per 15 min*		388.00	120.50
A - 02	Consultation to note, prosecute or defend an appeal	Per 15 min*		388.00	120.50
A - 03	Court attendance at proceedings in terms of Rule 37	Per 15 min*		388.00	
A - 04	Attendance by an attorney, where necessary to assist at a contested proceeding	Per 15 min*		388.00	120.50
A - 05	Conference with an advocate on pleadings, incl. exceptions and particulars to pleadings, applications, affidavits and testimony, and any other matter which the taxing officer may deem necessary	Per 15 min*		388.00	120.50
A - 06	Any other conference which the taxing officer may deem necessary	Per 15 min*		388.00	120.50
A - 07	Any inspection <i>in situ</i> , or otherwise	Per 15 min*		388.00	120.50
A - 08	Attending to give or take disclosure	Per 15 min*		388.00	120.50
A - 09	Inclusive fee for necessary consultations and discussions with a client, witness, other party or advocate not already provided for	Per 15 min*		388.00	120.50
A-10	Appearance by an attorney in the High Court or the performance by an attorney of any of the other functions of an advocate, in terms of the Right of Appearance in Courts Act No 62 of 1995).	Per 15 min*		700.00	
B	DRAFTING AND DRAWING: (INCLUSIVE TARIFF OF THE ORIGINAL ONLY: DRAWING-UP, CHECKING, TYPING, PRINTING, DELIVERY, POSTAGE, FILING)				
B - 01	Formal statement in a litigation matter, verifying affidavits, affidavits of service or other formal affidavits, index to brief, statements of witnesses, powers of attorney to sue or defend, formal documents and summonses, prescribed forms in the First Schedule of the High Court Rules <i>Excluding: particulars of claim in an annexure to the summons</i>	Per page	156.50		
B - 02a	Instructions for an opinion, for an advocate's guidance in preparing pleadings, including further particulars and requests for same as well as exceptions	Per page	388.00		
B - 02b	Instruction to advocate in respect of all classes of pleadings	Per page	388.00		
B - 02c	A petition, exception or affidavit, any notice, particulars of claim or annexure to the summons, opinion of the attorney or any other important document not otherwise provided for. <i>Excluding: a formal notice</i>	Per page	388.00		
B - 03	Letters, facsimiles, and electronic mail: including drawing up, checking, typing, printing, scanning, delivery, postage, posting and transmission thereof.	Per page	156.50		
NOTE	<i>Particulars of dispatched letters, telegrams and facsimiles need not be specified in a bill of costs. The number of letters written must be specified, as well as the total amount charged. The legal advisor may inspect the papers should the correctness of the Item be disputed.</i>				
C - 01	Attending the receipt, entry, perusing, considering, and filing of:				
C - 01a	Summons, affidavit, pleading, advocate's advice and drafts, report, important letter, notice or document	Per page	78.00		
C - 01b	Any formal letter, record stock sheet in voluntary surrenders, judgements or any material document not elsewhere specified	Per page	78.00		
C - 01c	Any plan or exhibit or other material document necessary for the conduct of the action	Per page	78.00		
C - 02	Sorting, arranging and paginating papers for pleadings, advice on evidence or brief on trial or appeal	Per 15 min*		388.00	120.50
NOTE	<i>Particulars of received papers need not be specified In the statement of account. The number of papers and pages received, as well as the total</i>				

APPOINTMENT OF SERVICE PROVIDERS FOR PANEL OF ATTORNEYS FOR THE PROVISION OF LEGAL SERVICES (PANEL OF ATTORNEYS AND COST CONSULTANTS) TO THE PUBLIC PROTECTOR SOUTH AFRICA (PPSA) FOR A PERIOD OF THREE YEARS.

	<i>amount charged therefor, must be spec/Red. The legal advisor or any relevant person within PPSA may inspect the papers received if the correctness of the item is disputed.</i>				
D MISCELANEOUS					
D - 01	Making necessary copies, including photocopies, not already provided for in this tariff	Per A4 Page	6.00		
D - 02	Attending to arrange translation and thereafter to procure same	Per 15 min*		388.00	120.50
D - 03	Necessary telephone calls, excluding actual costs	Per 5 min*		130.00	40.00
D - 04	Sending facsimile letters, excluding actual costs	Per Page	132.00		
E STATEMENT OF ACCOUNT/ BILL OF COSTS/ EXECUTION:					
NOTE	<i>In connection with the statement of account for services rendered by an attorney, the attorney shall not be entitled to charge a fee for drawing the statement of account</i>				
E-01	Drafting, issue and execution of a Warrant/Writ of Execution and attendances in connection therewith, excluding sheriffs' fees.		772.00		
E-02	Reissue of Writ of Execution.		194.00		
F DISBURSEMENTS					
F-01	Necessary Sheriff's fees or like process (edictal citation). Necessary advertisement costs pursuant to the grant of a substituted service order.		As set out in applicable statutory tariffs		
F-02	Travel		Tariff for Vehicle Class as per Department of Transport guidelines		
F-03	Necessary air travel		Economy class		
F-04	Necessary allowance for accommodation		Maximum allowable rates for the domestic accommodation and meals Issued by National Treasury for Travelers on Official Government Business		
F-05	Subsistence allowance		Not payable		
F-06	Toll road fees to the extent that these were reasonably necessary		Actual out of pocket expenses		
F-07	Data usage for trial conducted by virtual means		R138.00		
F-08	Data usage for court appearance for incidental professional services by virtual means		R68.00		

General Provisos

1. A trial day means a day on which evidence is led and/or the court hears argument after the hearing or submission of evidence and/or hands down judgment after the hearing of evidence for an aggregate time of not less than 4 hours. Where a trial day is of less than 4 hours duration, the trial day fee is reduced pro rata.
2. PPSA shall be liable for the day fee, in respect of attorneys, equivalent to 8 hours, unless the matter runs beyond normal working hours.
3. Except with the consent of the Manager/ Senior Manager: Legal Services of the PPSA, a practitioner shall not be entitled to claim more than 10 hours remunerated consultation, preparation and other pre-trial chamber work after litis contestatio for each anticipated trial day in a civil trial or civil matter, which is referred to evidence.
4. No Senior or Junior Counsel may be instructed without the express consent of the Manager/ Senior Manager: Legal Services. Fees may be agreed between the attorney and counsel at the rate and to the maximum

authorised by the PPSA.

5. Whenever the law firm paired the attorneys to render legal services in respect of a matter, PPSA shall not be charged duplicate fees in respect of each service rendered. For example, in case two attorneys from the law firm attended consultation, only senior attorney shall charge for consultation.
6. PPSA shall not be liable for the Candidate Attorney's fees, where the attorney was present at the consultation or in court, unless the matter was complicated and there was a need for candidate attorney's assistance, subject to the Senior Manager Legal Services' discretion to allow such fees.
7. A legal practitioner shall account to the PPSA and submit invoices by way of detailed itemised account or invoice, setting out the date, the work performed, the time taken (with reference to a 24-hour clock), the number of pages drafted or perused and the fees claimed under the specific item codes provided for in this tariff document.
8. A legal practitioner must retain their complete case file in respect of legal services rendered in any civil or non-litigious matter for at least 7 years after the finalisation of the mandate of the legal practitioner.
9. Where a rate is permitted per hour and the performance of a task requires a portion of an hour, the amount to be paid shall be calculated pro rata.
10. Disbursements
 - 10.1 Except as set out above no legal practitioner shall be entitled to recover any allowance or disbursement in respect of travel and accommodation or any other incidental expenses from PPSA.
 - 10.2. Except in the case of economy class air fares and toll roads (where vouchers must be produced and where the legal practitioner is reimbursed according to actual out of pocket expenditure) the allowances set out above are payable irrespective of the actual expenditure (either greater or lesser) incurred by the legal practitioner.
 - 10.3. Except as set out above, no other disbursements, including, but not by way of limitation, counsel's fees and correspondent's fees shall be paid to any legal practitioner without the prior written consent of the Manager: Senior Manager: Legal Services.
11. General
 - 11.1 All sums referred to are amounts exclusive of VAT.
 - 11.2 Under no circumstances will PPSA pay any collapse/reservation/cancellation/waiting/travelling fees to any legal practitioner for any matters whatsoever. PPSA will pay legal practitioners in accordance with its tariffs strictly according to services rendered and to the extent that the applicable tariff makes provision for the service rendered.
 - 11.3 It shall be the responsibility of the legal practitioner upon submitting their account to ensure that PPSA is placed in possession of all documentation that will enable it to pay the legal practitioner's account. Provided this requirement is fully and properly complied with, PPSA will affect payment of this account within 30 days of receipt thereof. In the event of PPSA being unable to effect payment within the specified time period, the legal practitioner will be provided in writing of the reason for non-payment.

We hereby confirm that : _____ **(Bidders name) accepts the PPSA rates.**

Signature: _____ **Date:** _____

Print Name of Signatory: _____ **Designation** _____

GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT

APPOINTMENT OF SERVICE PROVIDERS FOR PANEL OF ATTORNEYS FOR THE PROVISION OF LEGAL SERVICES (PANEL OF ATTORNEYS AND COST CONSULTANTS) TO THE PUBLIC PROTECTOR SOUTH AFRICA (PPSA) FOR A PERIOD OF THREE YEARS.

GENERAL CONDITIONS OF CONTRACT

TABLE OF CLAUSES

1. Definitions
2. Application
3. General
4. Standards
5. Use of contract documents and information; inspection
6. Patent rights
7. Performance security
8. Inspections, tests and analysis
9. Packing
10. Delivery and documents
11. Insurance
12. Transportation
13. Incidental services
14. Spare parts
15. Warranty
16. Payment
17. Prices
18. Contract amendments
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Dumping and countervailing duties

25. Force Majeure
26. Termination for insolvency
27. Settlement of disputes
28. Limitation of liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties
33. National Industrial Participation Programme (NIPP)
34. Prohibition of restrictive practices

General Conditions of Contract

1. Definitions 1. The following terms shall be interpreted as indicated:
 - 1.1 "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
 - 1.2 "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
 - 1.3 "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
 - 1.4 "Corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.
 - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
 - 1.6 "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.

- 1.7 "Day" means calendar day.
- 1.8 "Delivery" means delivery in compliance of the conditions of the contract or order.
- 1.9 "Delivery ex stock" means immediate delivery directly from stock actually on hand.
- 1.10 "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
- 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
- 1.12 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 1.13 "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.14 "GCC" means the General Conditions of Contract.
- 1.15 "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16 "Imported content" means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- 1.17 "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18 "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 "Project site," where applicable, means the place indicated in bidding documents.

- 1.21 “Purchaser” means the organization purchasing the goods.
- 1.22 “Republic” means the Republic of South Africa.
- 1.23 “SCC” means the Special Conditions of Contract.
- 1.24 “Services” means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
- 1.25 “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.

2. Application

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

3. General

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

4. Standards

- 4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.
5. Use of contract documents and information; inspection.
- 5.1 The supplier shall not, without the purchaser’s prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than

a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.

5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.

5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.

5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

6. **Patent rights**

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

7. **Performance security**

7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.

7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.

7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:

(a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or

(b) a cashier's or certified cheque

7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.

8. **Inspections, tests and analyses**

8.1 All pre-bidding testing will be for the account of the bidder.

- 8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.
- 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

9. **Packing**

- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

10. Delivery and documents

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

10.2 Documents to be submitted by the supplier are specified in SCC.

11. Insurance

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

12. Transportation

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

13. Incidental services

13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:

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

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

14. **Spare parts**

- 14.1 As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:
- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
 - (b) in the event of termination of production of the spare parts:
 - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
 - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

15. **Warranty**

- 15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.
- 15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.
- 15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.
- 15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.
- 15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

16. **Payment**

- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated in SCC.
17. **Prices**
- 17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.
18. **Contract amendments**
- 18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.
19. **Assignment**
- 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.
20. **Subcontracts**
- 20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.
21. **Delays in the supplier's performance**
- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for

performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.
- 21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 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 antidumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him.

25. **Force Majeure**

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

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

26. **Termination for insolvency**

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

27. **Settlement of Disputes**

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

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

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

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

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

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

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

28. Limitation of liability

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

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

(b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

29. Governing language

29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

30. Applicable law

30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.

31. Notices

31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice

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

32. **Taxes and duties**

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

33. **National Industrial Participation (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.

33 **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**