



**forestry, fisheries  
& the environment**

Department:  
Forestry, Fisheries and the Environment  
REPUBLIC OF SOUTH AFRICA

## **INVITATION TO BID**

**BID REFERENCE NUMBER: MLRF179/21**

APPOINTMENT OF A SERVICE PROVIDER/S TO PROVIDE THE MARINE LIVING RESOURCES FUND (MLRF), THE DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT ("THE DEPARTMENT"/DFFE) WITH VESSEL/S TO CONDUCT THE HYDRO-ACOUSTIC PELAGIC BIOMASS SURVEY BETWEEN OCTOBER AND DECEMBER 2021, THE HYDRO-ACOUSTIC PELAGIC RECRUIT SURVEY BETWEEN MAY AND JULY 2022, THE WEST COAST DEMERSAL TRAWL SURVEY BETWEEN JANUARY AND MARCH 2022, AND THE SOUTH COAST DEMERSAL TRAWL SURVEY BETWEEN APRIL AND MAY 2022.

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**NATIONAL TREASURY CENTRAL SUPPLIER DATABASE (CSD) REGISTRATION INFORMATION**

<b>Company name</b>	<b>Supplier registration number</b>	<b>Unique reference number</b>	
			<b>Main contractor</b>
			<b>Sub-contracted/ joint venture comp 1</b>
			<b>Sub-contracted/ joint venture comp 2</b>

**CLOSING DATE OF THE BID: 08 OCTOBER 2021 AT 11H00**



# forestry, fisheries & the environment

Department:  
Forestry, Fisheries and the Environment  
REPUBLIC OF SOUTH AFRICA

THE MARINE LIVING RESOURCES FUND A SCHEDULE 3A PUBLIC ENTITY ESTABLISHED IN TERMS OF THE PUBLIC FINANCE MANAGEMENT ACT, 1999 (ACT NO 1 of 1999) AND THE DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT, ("DFFE") (IN ITS COMMITMENT TO THE PRINCIPLES ENSHRINED IN THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996) ADHERES TO THE PROVISIONS OF THE BROAD BASED BLACK ECONOMIC EMPOWERMENT ACT, 53 OF 2003 (B-BBEE), THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, ACT 5 OF 2000 ("PPPF") AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.

## TERMS OF REFERENCE

**TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER/S TO PROVIDE THE MARINE LIVING RESOURCES FUND (MLRF), THE DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT ("THE DEPARTMENT"/DFFE) WITH VESSEL/S TO CONDUCT THE HYDRO-ACOUSTIC PELAGIC BIOMASS SURVEY BETWEEN OCTOBER AND DECEMBER 2021, THE HYDRO-ACOUSTIC PELAGIC RECRUIT SURVEY BETWEEN MAY AND JULY 2022, THE WEST COAST DEMERSAL TRAWL SURVEY BETWEEN JANUARY AND MARCH 2022, AND THE SOUTH COAST DEMERSAL TRAWL SURVEY BETWEEN APRIL AND MAY 2022.**

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TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER/S TO PROVIDE THE MARINE LIVING RESOURCES FUND (MLRF), THE DEPARTMENT OF ENVIRONMENT FORESTRY AND FISHERIES ("THE DEPARTMENT"/DEFF) WITH VESSEL/S TO CONDUCT THE HYDRO-ACOUSTIC PELAGIC BIOMASS SURVEY BETWEEN OCTOBER AND DECEMBER 2021 AND THE HYDRO-ACOUSTIC PELAGIC RECRUIT SURVEY BETWEEN MAY AND JULY 2022, THE WEST COAST DEMERSAL TRAWL SURVEY BETWEEN JANUARY AND MARCH 2022, AND THE SOUTH COAST DEMERSAL TRAWL SURVEY BETWEEN APRIL AND MAY 2022.

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## 1. PURPOSE

- 1.1. The Marine Living Resources Fund a Scheduled 3A Public Entity in terms of the Public Finance Management Act, 1999 (Act No 1 of 1999) (hereafter referred to as the MLRF) under the auspices of the Department of Forestry, Fisheries and the Environment (“Department”/ “DFFE”) and the Minister of Forestry, Fisheries and the Environment (“Minister”) in the exercise of their mandate and functions under the provisions of the Marine Living Resources Act, 18 of 1998 (“MLRA”) require the services of a suitable service provider/s to provide a fishing vessel/s to conduct one or more of the following surveys:
- A. the hydro-acoustic pelagic biomass survey between October and December 2021
  - B. the pelagic recruit survey between May and July 2022
  - C. the west coast demersal trawl survey between January and March 2022
  - D. the south coast demersal trawl survey between April and May 2022.

## 2. INTRODUCTION AND BACKGROUND

- 2.1. The Departmental research vessel *Africana* is scheduled to undergo replacement of two of her generators (which form part of the diesel-electric propulsion system) during 2021/2022. There is some uncertainty regarding the time period that will be required to conduct the refit, and permission has consequently been obtained to charter an alternative vessel/s to conduct the 2021 hydro-acoustic pelagic biomass survey (between October and December), the 2022 hydro-acoustic pelagic recruitment survey (between May and July), the 2022 west coast demersal trawl survey (between January and February), and the 2022 south coast demersal trawl survey (between April and May) in the event that the *Africana* is not available for this purpose.
- 2.2. Annual surveys of South Africa’s small pelagic fish resources are essential to the setting of Total Allowable Catches (TACs) in the small pelagic fisheries sector. The 2021 hydro-acoustic pelagic biomass survey estimate is the most important input for setting the sardine TAC, initial anchovy TAC and sardine by-catch (TAB) allowances for 2022 and the 2022 pelagic recruit survey is required to finalise the anchovy TAC and sardine TAB for 2022. To enable the Branch: Fisheries Management to conduct surveys of this magnitude, specialized participation is needed. This includes a vessel that can operate in both nearshore and offshore areas between the Orange River and Port Alfred.
- 2.3. The hydro-acoustic pelagic biomass survey must be conducted over a 51 day period between mid-October and mid December over the continental shelf area from close inshore (20m depth) to the edge of the shelf (~200m depth) from Hondeklip Bay to Port St Johns. Transects positioned perpendicular to the coast are acoustically sampled continuously by day and night while frequent hydrographic sampling with a conductivity/temperature/depth probe (CTD) and midwater trawling is conducted to catch small samples of pelagic fish for biological analyses.
- 2.4. The hydro-acoustic pelagic recruit survey must be conducted over a 43 day period between mid May and early July over the inshore area of the continental shelf from close inshore (20m depth) to a distance of 40 to 60 nm offshore from the Orange River to Port Alfred. Similar sampling protocols as for the hydro-acoustic pelagic biomass survey are used.

- 2.5. The vessel/s to be used for pelagic surveys must be equipped with a hull-mounted ES38-B Simrad split beam transducer within the foremost 1/3 of the hull and the vessel should be fitted with a fixed-pitch propeller. The vessel/s must have a length of >50m, a fully-bunkered draft of not more than 6m and be capable of midwater trawling with the FRS Africana trawl gear at a speed of at least 3.5 knots in windspeeds of up to 30 knots. The vessel/s should also have a functioning trawl monitoring system for observations at fishing depths between 10m and 200m and be able to maintain a constant survey speed of 10 knots. The vessel/s must be manned by a competent Master/skipper and crew with extensive knowledge and experience in midwater trawling and have work space and accommodation for at least 12 scientists, with separate ablutions for men and women. The vessel/s must be able to carry sufficient fuel, food/supplies and fresh water to stay at sea for at least 14 consecutive days and have blast freezers and freezer rooms for storage of scientific samples.
- 2.6. The demersal surveys conducted annually by the Department on the West and South Coasts in summer and autumn respectively are a crucial source of data for the assessment and management of South Africa's demersal fish resources.
- 2.7. Typically, the surveys are conducted over a period of 35 to 40 days (depending on the weather), during which 120 stations are sampled using demersal trawl gear. The station positions are selected using a pseudo-random stratified approach that divides the survey area into depth- and latitude/longitude-based sub-strata and then randomly selects stations within each sub-stratum, the numbers of which are proportional to the area of the sub-stratum. The West Coast surveys sample the continental shelf between the border with Namibia in the north and Cape Agulhas in the south (see Annexure 1), while the South Coast surveys sample the area between Cape Agulhas and Port Alfred (Annexure 1).
- 2.8. A conductivity/temperature/depth probe (CTD) equipped with oxygen, light and fluorescence sensors is mounted on the headline of the trawl gear and collects important hydrographic data during each trawl. Net sensors mounted on the gear are used to check that the gear configuration is optimal, that the gear is on the seabed during sampling operations and to provide measurements of the gear configuration that are used in calculations of the area swept by the gear during the trawl to enable calculations of fish density at each station.
- 2.9. All fish caught during trawls are identified to species level (where possible), and in the case of hake, chondrichthyans and cephalopods are also separated by gender. The species/gender samples are then weighed and sub-samples measured to provide length frequency data. Biological analyses (individual length and weight, gender, maturity stage, gonad and liver weights, stomach contents analysis and otolith sampling) are conducted on sub-samples of commercially important species.
- 2.10. Due to the time-sensitive nature of the research surveys and the need for comparability across years, these surveys cannot be conducted at another time during the year.
- 2.11. Department officials (scientists and technicians), lead and supervised by a Scientist in Charge will be on board the vessel/s at all times to ensure that the survey objectives are met.

### **3. OBJECTIVE**

- 3.1. The objective of this Terms of Reference is to appoint a suitable independent service provider/s that meets the requirements to provide a vessel/s to conduct the 2021 hydro-acoustic pelagic biomass, 2022 hydro-acoustic pelagic recruitment, 2022 west coast demersal trawl, and 2022 south coast demersal trawl surveys. Sailing orders that detail the scope and extent of work (names of scientific personnel, scientific objectives and sampling routines and survey maps with pre-specified coordinates for positioning of transects and environmental sampling) will be supplied to the service provider and to the Master/skipper at least 10 days before departure and hence only an overview is provided below.

### **4. SCOPE AND EXTENT OF WORK**

- 4.1. The service provider shall:
- 4.1.1. pay for all stores and provisions and the like and generally all that is required for the running, operation and maintenance of the vessel/s including the provision of bunker fuel and lubes for the vessel/s
  - 4.1.2. provide all departmental officials with three (3) reasonable and decent meals per day and sufficient drinking water
  - 4.1.3. man the vessel with crew with the necessary experience and who are properly qualified, with due consideration to operational requirements of the vessel/s, its safety and maintenance and the safety and maintenance at sea of its fishing gear and equipment
  - 4.1.4. take responsibility for the risk management of the vessel/s during the charter period and provide adequate supervision for the safety of the vessel/s during such periods as the vessel/s is in port
  - 4.1.5. arrange for the insurance of the vessel/s during the period of the survey which shall include total loss, machinery breakdown and protection and indemnity (P&I) cover
  - 4.1.6. implement effective COVID-19 protocols to minimise the risk of COVID-19 infection, including pre-departure screening of personnel, provision of sanitizer and PPE.
- 4.2. The Master/skipper shall:
- 4.2.1. navigate and operate the vessel in accordance with national regulations and directives
  - 4.2.2. perform the voyages with due dispatch, and shall render all customary assistance. However, notwithstanding that the Master/skipper shall be under the orders and directions of the service provider as regards the deployment of the vessel, all tasks performed on board the vessel shall be under the ultimate supervision of the Master/skipper, and the navigation and safety of the vessel and her crew/personnel shall remain the responsibility of the Master/skipper.
- 4.3. The skipper/s must be:
- 4.3.1. suitably qualified and competent
  - 4.3.2. familiar with the fishing grounds and harbours within the survey areas described in this document
  - 4.3.3. able to communicate clearly in English.

- 4.3. The service provider/s must provide a vessel/s to ensure completion of the surveys. Whereas a single vessel to conduct both of the pelagic and (separately) both of the demersal surveys is preferred, the Department acknowledges that taking commercial vessels out of operation for a prolonged period of time may be difficult and hence service provider/s are invited to submit a tender to conduct one or more of the four surveys. Examples of the survey designs are included in Annexure A.
- 4.4. The vessel/s will be required to complete the following survey/s
- A. The 2021 hydro-acoustic pelagic biomass survey (51 day period between mid-October and mid December)
  - B. The 2022 hydro-acoustic pelagic recruitment survey (43 day period between mid May and early July)
  - C. The Summer 2022 West Coast Demersal Trawl Survey encompassing the continental shelf (from the coast to the 1 000 m isobath) between the border with Namibia in the north and the 20°E line of longitude (Cape Agulhas) in the south to be conducted during January-February 2022
  - D. The Autumn 2022 South Coast Demersal Trawl Survey encompassing the continental shelf (from the coast to the 1 000 m isobath) between the 20°E line of longitude (Cape Agulhas) in the west and the 27°E line of longitude (Port Alfred) in the east to be conducted during April-May 2022.
- 4.5. The Department shall:
- 4.5.1. provide at its cost all scientific personnel and equipment (including midwater and demersal trawl gear as required for particular survey/s)
  - 4.5.2. The Department will appoint officials as Scientists in Charge for each survey, who will act on behalf of the Department and communicate frequently with the Master/skipper regarding the survey objectives and sampling needs. This officer will also be responsible for supervision of other departmental staff and for communication with the Department during the survey. The Master/skipper and the Scientist in Charge will jointly decide on strategies to optimise time usage during the survey, such as when to cease sampling due to bad weather conditions, or deviate from the survey plans for whatever unplanned reason.
- 4.6. For surveys A and B:**
- 4.6.1. the vessel/s will be required alongside in Cape Town for a 2-day period prior to departure of each survey for loading and installing scientific equipment and trawl gear. Calibration of the acoustic system will be conducted either in Table Bay or in St Helena Bay (weather dependent). One or two technicians will either sail with the vessel (or embark the vessel) for this exercise which will take approximately 3 hours to complete. Once completed the technicians must be returned to the nearest port.
  - 4.6.2. The vessel will then survey the area between the Orange River (pelagic recruit survey) or Hondeklip Bay (pelagic biomass survey) and Cape Agulhas before returning to Cape Town for one day to exchange scientific staff (subject to COVID-19 circumstances at the time), bunker and replenish

supplies. The vessel will then survey the remainder of the area between Cape Agulhas and Port Alfred/Port St Johns before returning to Cape Town. One day is required in port at the end of the survey for offloading scientific equipment, trawl gear and samples.

4.6.3. The 51 day duration for the hydro-acoustic pelagic biomass survey and 43 day duration for the pelagic recruit survey is the maximum duration for these surveys and include allowance for bad weather days when sampling cannot be conducted because conditions are either not suitable for acoustic data collection or for safe trawling operations – during these adverse weather periods the vessel will either shelter inshore or hove to (as determined during discussion between the Scientist in Charge and the Master/Skipper to be the safest and most cost-effective outcome). The vessel is expected to return to Cape Town immediately upon completion of the survey, irrespective of the total number of days used and hence the overall duration of the survey may be reduced.

4.6.4. The vessel/s must be:

- 4.6.4.1. available during the period specified for each survey
- 4.6.4.2. properly certified (copy of a valid SAMSA certificate to be provided) and compliant with the South African statutory regulations
- 4.6.4.3. maintained in a seaworthy condition for the duration of the charter period in accordance with good commercial maintenance practice, and replaced with a suitable alternative vessel at short notice in the event of a major breakdown
- 4.6.4.4. equipped with a hull-mounted ES38-B Simrad split beam transducer positioned within the foremost 1/3 of the vessel's hull
- 4.6.4.5. the GPS output must be available for input into the ER60 computer. The transducer plug connector must be made available for connection to a 38kHz GPT (to be supplied by DFFE, unless already installed by the local SIMRAD agent). A certificate from the local SIMRAD agent stating that the acoustic system is operational within the manufacturers specifications must be provided.
- 4.6.4.6. calibrated at the start of the survey (DFFE to oversee) and noise levels checked through passive recording (should not exceed -80dB at 100m depth)
- 4.6.4.7. in excess of 50m, fitted with a fixed-pitch propeller (4 or more blades), have a draft (fully bunkered) of not more than 6m
- 4.6.4.8. able to maintain a survey speed of at least 10 knots, and to conduct mid-water trawling with the Africana midwater trawl gear at a speed of 3.5 knots in wind speeds of up to 30 knots
- 4.6.4.9. fitted with a suitable net sounder system which allows for observations at fishing depths between 10m and 200m
- 4.6.4.10. able to carry sufficient fuel, food/supplies and fresh water to stay at sea for at least 14 consecutive days

4.6.5. In addition, the vessel/s must make available:

- 4.6.5.1. clean and functional accommodation and ablutions (separate for men and women) with bunks for 12 scientists



- 4.6.5.2. suitable laundry facilities for the scientific officials
- 4.6.5.3. a dedicated acoustic work area on the bridge, with a desk and chair and access to fitted electrical plug points for setup of acoustic loggers and computers
- 4.6.5.4. sufficient deck space for sorting the catch by species into fish bins (the bins will be supplied by DFFE if necessary) and then weighing the bins. This requires large motion compensated scales (capable of weighing up to 100kg). These can be supplied by DFFE if necessary, but will have to be installed on the industry vessel and calibrated. The large scales must be readily accessible from the sorting table/surface (full fish bins will have to be transferred from the sorting table/surface to the scales for weighing).
- 4.6.5.5. a dry, sheltered work area close to the weighing and sorting table with access to electric plug points for computers for capturing biological data
- 4.6.5.6. suitable hand-held two-way radios or an intercom/telephone for communications between this location and the acoustic work area on the bridge
- 4.6.5.7. blast freezers and freezer rooms for sample storage
- 4.6.5.8. a constant supply of un-filtered seawater pumped from the sea-chest at >400l/min for the CUFES (Continuous Underwater Fish Egg Sampler) and sufficient sheltered space for installation of the sampler. A slave GPS readout must also be made available in this location
- 4.6.5.9. appropriate storage space for spare trawl nets, wires, doors and associated equipment (DFFE will provide 2 nets, a sets of doors, weights and associated wire and cables), scientific equipment (spare scales, microscopes, dissecting equipment etc.), chemicals (formalin, alcohol), sample vials and jars, sample bins and trays, plastic bags, otolith trays.
- 4.6.5.10. freezer facilities suitable for quick freezing a maximum of 300 kg of samples after each trawl to -20°C, and 10 tons holding freezer capacity (-10°C).
- 4.6.5.11. a deck winch with at least 400m of cable capable of deploying a portable CTD (<50kg) to a depth of 200m

#### **4.7. For surveys B and C:**

- 4.7.1. The vessel/s will be expected to be available at the quay for at most 2 days before and after each survey for loading/unloading of gear and scientific equipment
- 4.7.2. The vessel/s will be expected to remain at sea for the entire duration of the survey (a maximum of 38 days for each of the West and South Coast surveys, inclusive of days alongside during loading and unloading), although a “change-over” may be conducted half-way through each survey to refuel, take on water and fresh provisions if necessary and allow for a crew change (subject to COVID19 circumstances at the time). Such change-overs will occur either in Cape Town harbour (West Coast survey), or Mossel Bay or Port Elizabeth harbours (South Coast survey). The surveys typically involve sampling 120 stations at an average rate of four (4) stations per day (depending on the depth where the vessel is working). The vessel/s is expected to return to Cape Town immediately upon completion of the survey, irrespective of the total number of days used and hence the overall duration of the survey may be reduced.

4.7.3. The vessel/s will be required to conduct scientific demersal trawling operations during daylight hours and acoustic surveying of the seabed at selected stations during the night.

4.7.4. The vessel/s must:

- 4.7.4.1. be maintained in a seaworthy condition for the duration of the charter period/s (copy of a valid SAMSA certificate to be provided), and replaced with a suitable alternative vessel at short notice in the event of a major breakdown
- 4.7.4.2. capable of deploying the DFFE scientific demersal trawl gear (German 4-panel 180 ft bottom trawl with modified rock-hopper footrope, 9m sweeps, Morgere trawl doors and equipped with a portable CTD and a "trawl eye" sensor mounted on headline of the net) to a maximum of 1 000 m depth and to tow the gear at 3.5 knots (speed over ground) for 30 minutes (standard tow duration).
- 4.7.4.3. capable of detecting and logging net sensor data (i.e. the vessel must be equipped with a suitable net monitoring system capable of operating to 1000 m depth). The Department requires logged measurements of door spread, wing spread, headline height, contact with the sea floor and ideally temperature (but this latter is not critical). *Africana* currently uses MarPort sensors. An alternative system would be acceptable provided that the data could be logged.
- 4.7.4.4. be equipped with MaxSea marine navigational software interfaced to the vessel's GPS.
- 4.7.4.5. have sufficient deck space for sorting the catch by species into fish bins (the bins will be supplied by DFFE if necessary) and then weighing the bins. This requires large motion compensated scales (capable of weighing up to 100kg). These can be supplied by DFFE if necessary, but will have to be installed on the industry vessel and calibrated. The large scales must be readily accessible from the sorting table/surface (full fish bins will have to be transferred from the sorting table/surface to the scales for weighing).
- 4.7.4.6. have a suitable, safe area to weigh and measure large specimens of sharks, skates and sunfish that can then be released alive.
- 4.7.4.7. have a salt water supply and hose for washing off bins and equipment.
- 4.6.4.8. have scope for "laboratory" space for conducting fish measures and biological analyses, incorporating worktables/surfaces for measuring large numbers of fish. Ideally, this area should permit the installation of the *Africana* electronic fish boards (to be supplied by DFFE) that are interfaced to the FishBoard data collection computer, which will have to be located in a dry area with a desk, chair and power supply adjacent to the measuring tables to allow communication between the data manager and the fish measuring team. If this is not feasible, an alternative option would be the purchase of two portable electronic fish measuring boards that capture the data in electronic format, either on a built-in hard drive, or through an interface to a laptop computer. The least preferable option would be manual length data collection, requiring a data scribe in addition to the fish measurer
- 4.6.4.9. at least 2 (and preferably 3) additional work tables/surfaces for conducting biological analyses. Each should have access to a power supply to enable the installation of a motion compensated fine scale (to be supplied by DFFE)

- 4.6.4.10. an additional work table/surface with access to electricity for mounting a stereo microscope used for species identification (the microscope will be supplied by DFFE)
- 4.6.4.11. have scope for "office" space for the data manager, equipped with a desk (suitable for installing a personal computer and printer), chair and power supply. This area will need to remain dry, but be sufficiently close to the "laboratory" space to allow for communication between the data manager and the other scientific personnel.
- 4.6.4.12. have appropriate storage space for spare trawl nets, wires, doors and associated equipment (DFFE will provide 4 nets, 2 sets of doors, associated wire and cables, as well as net sensor gear if required), scientific equipment (spare scales, microscopes, dissecting equipment etc.), chemicals (formalin, alcohol), sample vials and jars, sample bins and trays, plastic bags, otolith trays
- 4.6.4.13. have suitable freezer facilities for quick freezing a maximum of 300 kg of samples after each trawl to -20°C, and a 10 ton holding freezer capacity (-10°C).
- 4.6.4.14. have suitable, clean and functional accommodation and ablutions (separate for men and women) for at least 12 scientific personnel (including an electronic technician and a fishing master).
- 4.6.4.15. have suitable laundry facilities.

## **5. EXPECTED DELIVERABLES / OUTCOMES**

- 5.1 The service provider will be expected to provide a vessel/s and suitable Master/skipper and crew and to conduct the survey/s.

## **6. PERIOD / DURATION OF APPOINTMENT**

- 6.1 The appointment/s will run during the period/s indicated per survey and will commence as agreed in the Memorandum of Agreement (MOA) signed between the Department/MLRF and the service provider.

## **7. COSTING / COMPREHENSIVE BUDGET**

- 7.1. A daily rate for the service that includes all costs (including fuel and lubes) must be provided for each vessel/s and survey/s. This rate should make allowance for days alongside and days at sea.
- 7.2. Prices quoted must be VAT inclusive.
- 7.3. The price quoted must remain fixed for the duration of the contract.

## **8. EVALUATION METHOD**

- 8.1 The evaluation will be done separately for each survey: A, B, C and D.
- 8.2 The evaluation for this bid will be carried out in three (3) phases:
  - Phase 1: Pre-compliance.
  - Phase 2: Mandatory requirements.
  - Phase 3: Price and B-BBEE.
  -

### 8.3 PHASE 1: Pre-compliance or Initial Screening

8.3.1 During this phase bid documents will be reviewed to determine the compliance with Supply Chain Management Standard Bidding Documents and any other required returnable, tax matters and whether the Central Data Base (CSD) report has been submitted with the bid documents at the closing date and time of the bid. Bids which do not satisfy the compliance criteria will not be evaluated further.

8.3.2 The bid proposal will be screened for compliance with administrative requirements as indicated below

Item No.	Administrative Requirements	Check/Compliance	Non-submission may result in disqualification
1	Master Bid Document	provided and bound	*YES
2	5 Copies of Bid Documents	provided and bound	*YES
<b>Included in the Bid Document</b>			
3	SCM - SBD 1 - Invitation to Bid	Completed and signed	*YES
4	SCM - SBD 2 - Tax Clearance Certificate Requirements	CSD registration number/SARS PIN and CSD summary report	*YES
5	SCM - SBD 3.3 – Pricing Schedule	Completed and signed	*YES
6	SCM - SBD 4 - Declaration of Interest	Completed and signed	*YES
7	SCM - SBD 6.1 - Preference Points Claim Form in terms of the Preferential Procurement Regulations 2017	Completed and signed, supported by B-BBEE Certificate if applicable or Affidavit if applicable	**NO
8	SCM - SBD 8 – Declaration of Bidder's Past Supply Chain Management Practices	Completed and signed, supported	*YES
9	SCM - SBD 9 - Certificate of Independent Bid Determination	Completed and signed	*YES
10	In case of bids where Consortia / Joint Ventures, Consortia/Joint Venture agreement signed by both parties must be submitted with bid proposal	JV agreement completed and signed, if applicable	*YES

**\*YES** – DFFE/MLRF reserves the right to reject proposals that are not submitted in the prescribed format or where information presented is illegible and/or incomplete and will not be further evaluated for Phase 2.

**\*\*NO** – DFFE/MLRF reserves the right to request such information during the evaluation process of the proposal and such information must be presented within short notice.

**8.4. PHASE 2: Mandatory Requirements**

8.4.1. The following table/s must be completed by the bidder for each survey by answering **YES OR NO** and attach proof.

8.4.2. Only bidders who achieve a “Yes” for all mandatory requirements will proceed for evaluation on price and B-BBEE.

<b>SURVEY A: MANDATORY REQUIREMENTS FOR 2021 HYDRO-ACOUSTIC PELAGIC BIOMASS SURVEY</b>	<b>COMPLY: YES OR NO</b>
Available throughout the period specified (51 days between mid-October and mid-December 2021)	
South African flagged vessel/s carrying all valid certificates (certified copies must be submitted) as required by SAMSA for a fishing trawler (particularly the Local General Safety Certificate) and manned in compliance with the Safe Manning Document	
Equipped with a hull-mounted ES38-B Simrad split beam transducer positioned within the foremost 1/3 of the vessel’s hull (A certificate from the local SIMRAD agent stating that the transducer is functional within the manufacturers specifications must be submitted)	
Stern trawler in excess of 50 m, a bunkered draft not exceeding 6m, and with at least 1000 m of trawl warps (Certified copy of vessel specification sheet or appropriate alternative to be provided)	
Fitted with a working net monitoring system which allows for observations at fishing depths between 10m and 200m (specification sheet to be supplied)	
Clean and functional accommodation and ablutions (separate for men and women) with bunks for 12 scientists (schematic layout of the vessel with an indication of the location of cabins/bunks and demarcation of ablutions for men and women to be submitted).	

<b>SURVEY B: MANDATORY REQUIREMENTS FOR 2022 HYDRO-ACOUSTIC PELAGIC RECRUITMENT SURVEY</b>	<b>COMPLY: YES OR NO</b>
Available throughout the period specified (43 Days between mid-May and early July 2022)	
South African flagged vessel/s carrying all valid certificates (certified copies must be submitted) as required by SAMSA for a fishing trawler (particularly the Local General Safety Certificate) and manned in compliance with the Safe Manning Document	
Equipped with a hull-mounted ES38-B Simrad split beam transducer positioned within the foremost 1/3 of the vessel’s hull (A certificate from the local SIMRAD agent stating that the transducer is functional within the manufacturers specifications must be submitted)	
Stern trawler in excess of 50m, a bunkered draft not exceeding 6m, and with at least 1000m of trawl warps (Certified copy of vessel specification sheet or appropriate alternative to be provided)	
Fitted with a working net monitoring system which allows for observations at fishing	

TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER/S TO PROVIDE THE MARINE LIVING RESOURCES FUND (MLRF), THE DEPARTMENT OF ENVIRONMENT FORESTRY AND FISHERIES (“THE DEPARTMENT”/DEFF) WITH VESSEL/S TO CONDUCT THE HYDRO-ACOUSTIC PELAGIC BIOMASS SURVEY BETWEEN OCTOBER AND DECEMBER 2021, THE HYDRO-ACOUSTIC PELAGIC RECRUIT SURVEY BETWEEN MAY AND JULY 2022, THE WEST COAST DEMERSAL TRAWL SURVEY BETWEEN JANUARY AND MARCH 2022, AND THE SOUTH COAST DEMERSAL TRAWL SURVEY BETWEEN APRIL AND MAY 2022.

depths between 10m and 200m (specification sheet to be supplied)	
Clean and functional accommodation and ablutions (separate for men and women) with bunks for 12 scientists (schematic layout of the vessel with an indication of the location of cabins/bunks and demarcation of ablutions for men and women to be submitted).	

<b>SURVEY C: MANDATORY REQUIREMENTS FOR THE SUMMER WEST COAST DEMERSAL TRAWL SURVEY</b>	<b>COMPLY: YES OR NO</b>
Availability of a suitable vessel/s for 38 days during the period 1 January to 31 March 2022	
South African flagged vessel/s carrying all valid certificates (certified copies must be submitted) as required by SAMSA for a fishing trawler (particularly the Local General Safety Certificate) and manned in compliance with the Safe Manning Document	
Vessel/s must be a stern trawler at least 50 meters in length and equipped with at least 2 500 meters of trawl warps (certified copy of the vessel specifications sheet must be submitted)	
Vessel/s equipped with a working MaxSea digital navigational system	
Vessel equipped with a working net monitoring system	
Vessel has clean and functional accommodation and ablutions (separate for men and women) for at least 12 scientific personnel (schematic of layout with locations of cabins/bunks and demarcation of ablution facilities for men and women to be submitted)	

<b>SURVEY D: MANDATORY REQUIREMENTS FOR THE AUTUMN SOUTH COAST DEMERSAL TRAWL SURVEY</b>	<b>COMPLY: YES OR NO</b>
Availability of a suitable vessel/s for 38 days during the period 1 April to 30 June 2022	
South African flagged vessel/s carrying all valid certificates (certified copies must be submitted) as required by SAMSA for a fishing trawler (particularly the Local General Safety Certificate) and manned in compliance with the Safe Manning Document	
Vessel/s must be a stern trawler at least 50 meters in length and equipped with at least 2 500 meters of trawl warps (certified copy of the vessel specifications sheet must be submitted)	
Vessel/s equipped with a working MaxSea digital navigational system	
Vessel equipped with a working net monitoring system	
Vessel has clean and functional accommodation and ablutions (separate for men and women) for at least 12 scientific personnel (schematic of layout with locations of cabins/bunks and demarcation of ablution facilities for men and women to be submitted)	

8.4.3. The Department shall have the right to inspect the vessels during the bid evaluation process and to reject vessels that do not comply with the requirements.

## 8.5. PHASE 3: Preference Point System 80/20

- 8.5.1. The **third phase** is to perform an evaluation of Price and B-BBEE on the bidders, that successful qualified on Phase 2 (Mandatory Requirements).
- 8.5.2. **Calculation of points for price** - The PPPFA prescribes that the lowest acceptable bid will score 80 points for price. Bidders that quoted higher prices will score lower points for price on a pro-rata basis. Where functionality is set as criteria, only bid proposals that meets functionality requirements will be considered to be evaluated on price and B-BBEE.
- 8.5.3. **Calculating of points for B-BBEE status level of contribution**
- 8.5.4. Points will be awarded to a bidder for attaining the B-BBEE status level of contribution by submitting original and valid B-BBEE Status Level Verification Certificate issued by SANAS Accredited Verification Agency or certified copies thereof; or B-BBEE Certificate issued by CIPC, or Sworn Affidavit commissioned by Commissioner of Oaths together with their bids, to substantiate their B-BBEE rating claims. SBD 6.1 must also be duly completed, signed, and submitted alongside the bid to claim preference points. Failure to do so will result in B-BBEE preference points being forfeited.

<b>Phase 3: The following table must be used to calculate the B-BBEE scores (80/20)</b>	
<b>PRICE</b>	
<b>B-BBEE Status Level Contributor</b>	<b>Number of points (80/20)</b>
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non –compliant contributor	0

## 9. BID SUBMISSION REQUIREMENTS

- 9.1. Bidders should ensure that the following submission requirements, which will be needed for evaluation purposes are included in their bid proposal and are as follows:
- 9.1.1. The service provider must draft a table of contents which will indicate where each document is located in the proposal.
- 9.1.2. The proposal shall consist of two parts, namely the technical bid and the pricing bid (master and copy/ies).
- 9.1.3. Clear indication of which survey(s) (A, B, C, D) are being bid for.
- 9.1.4. A daily rate that includes all costs inclusive of VAT (including fuel and lubes) must be provided for each vessel/s and survey. This rate should make allowance for days alongside and days at sea

- 9.1.5. Completed table of mandatory requirements, as set out in the table in paragraph 8.3 of this document, together with all necessary supporting documents and proof.
- 9.1.6. Standard bidding documents (SBD1, 2, 3.3, 4, 6.1, 8 and 9) completed, signed and submitted.
- 9.1.7. SARS Pin number and Central Supplier Database (CSD) number or report.
- 9.1.8. Suppliers/Service Providers are requested to submit the original and valid B-BBEE Status Level Verification Certificate or certified copies thereof issued by verification agencies accredited by SANAS only or an original or certified copy of DTI sworn affidavit in terms of Codes of good practice" indicating that service provider is an EME/ QSE
- 9.1.9. Certified copies of identity documents of directors and shareholders of the company.
- 9.1.10. Entity registration Certificate (CK1).
- 9.1.11. Letter of Authority to sign documents on behalf of the company.

## **10. SPECIAL CONDITIONS OF CONTRACT**

- 10.1. The Department reserves the right not to award the tender or to terminate a Service Level Agreement in the event that the FRS Africana becomes available to conduct one or all of these surveys.
- 10.2. On appointment, the performance measures for the delivery of the agreed services will be closely monitored by DFFE.
- 10.3. DFFE/MLRF will not be held responsible for any costs incurred by the service providers in the preparation, presentation and submission of the proposal.
- 10.4. The Service Provider will submit a report at the end of each survey reflecting the number of days the vessel was used.
- 10.5. Travelling costs and time spent or incurred between home and office of the service provider and DFFE/MLRF office will not be for the account of DFFE/MLRF.
- 10.6. Bidders failing to meet all the mandatory requirements will automatically be disqualified.
- 10.7. A trust, consortium or joint venture will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 10.8. A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate proposal.
- 10.9. In the event that the application is made by a Joint Venture or Partnership, the accreditation credentials in name of joined entity should be submitted. Both members in the joint venture must meet the requirement of the proposal.
- 10.10. Poor or non-performance by the bidder will result in cancellation of the order and the SLA.



10.11. Should the service provider fail to perform, DFFE/MLRF reserves the right to cancel the appointment of such service provider immediately and without any notice.

10.12. All fish caught during the survey will be deemed to be scientific samples and the service providers, Master/skipper and crew shall have no claim to these catches.

10.13. Roll-overs or season extensions will not be entertained as a result of this bid being awarded to a person or company that is a current Right/Exemption Holder, or attains a Right during the duration of the period of the agreement, in any of the fishing sectors.

## **11. SUB-CONTRACTING CONDITIONS/ REQUIREMENTS**

11.1. In a case whereby sub-contracting is not set as a pre-qualification criterion, however the tenderer is intending to sub-contract portion of work, such tenderer awarded a contract may only enter into sub-contracting arrangements with the approval of the Department.

11.2. In relation to a designated sector, a contractor will not be allowed to subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.

11.3. A tenderer will not be awarded the points claimed for B-BBEE status level of contribution or contract if it is indicated in the bid documents that such a bidder intends subcontracting more than 25% of the contract value to any other enterprise that does not qualify for at least the same number of points that the bidder qualifies for, unless the intended sub-contractor is an Exempted Micro Enterprises (EME) that has the capability and ability to execute the sub-contract.

11.4. The contractor is not allowed to sub-contract more than 25% of the contract value to another enterprise that does not have equal or higher B-BBEE status level, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.

## **12. PAYMENT TERMS**

12.1. DFFE/MLRF undertakes to pay in full within thirty (30) days all valid claims for work done to its satisfaction upon presentation of a report indicating the days used during the period and original invoice. No payment will be made where there is outstanding work not completed by the service provider. All invoices must be accompanied by a statement.

### 13. ENQUIRIES

Should you require any further information in this regard, contact:

**Supply Chain Enquiries**

Ms Ncumisa Matiwane

Tel: 021- 402 3632

Email: [nmatiwane@environment.gov.za](mailto:nmatiwane@environment.gov.za)

**OR**

**Technical enquiries**

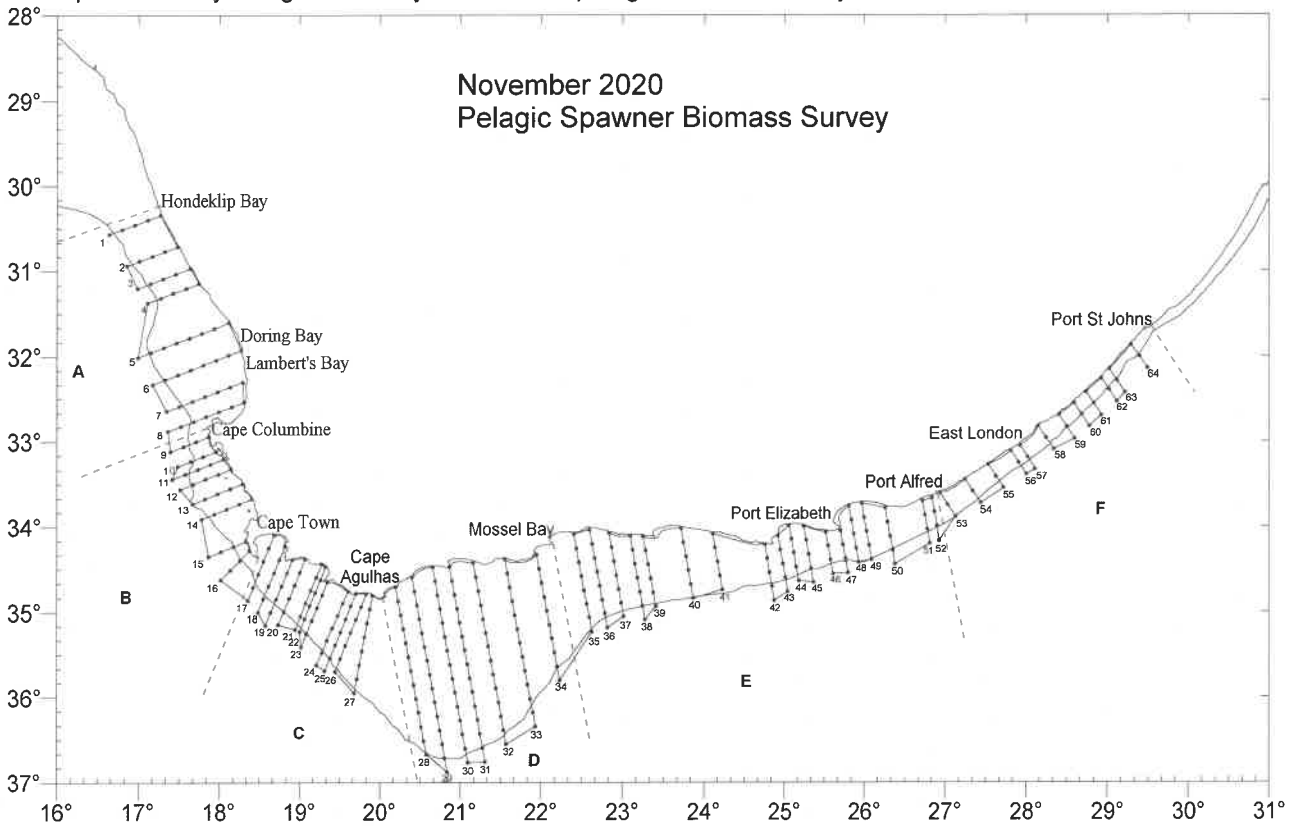
Mr Johan Rademan

Tel: 021- 402 3198

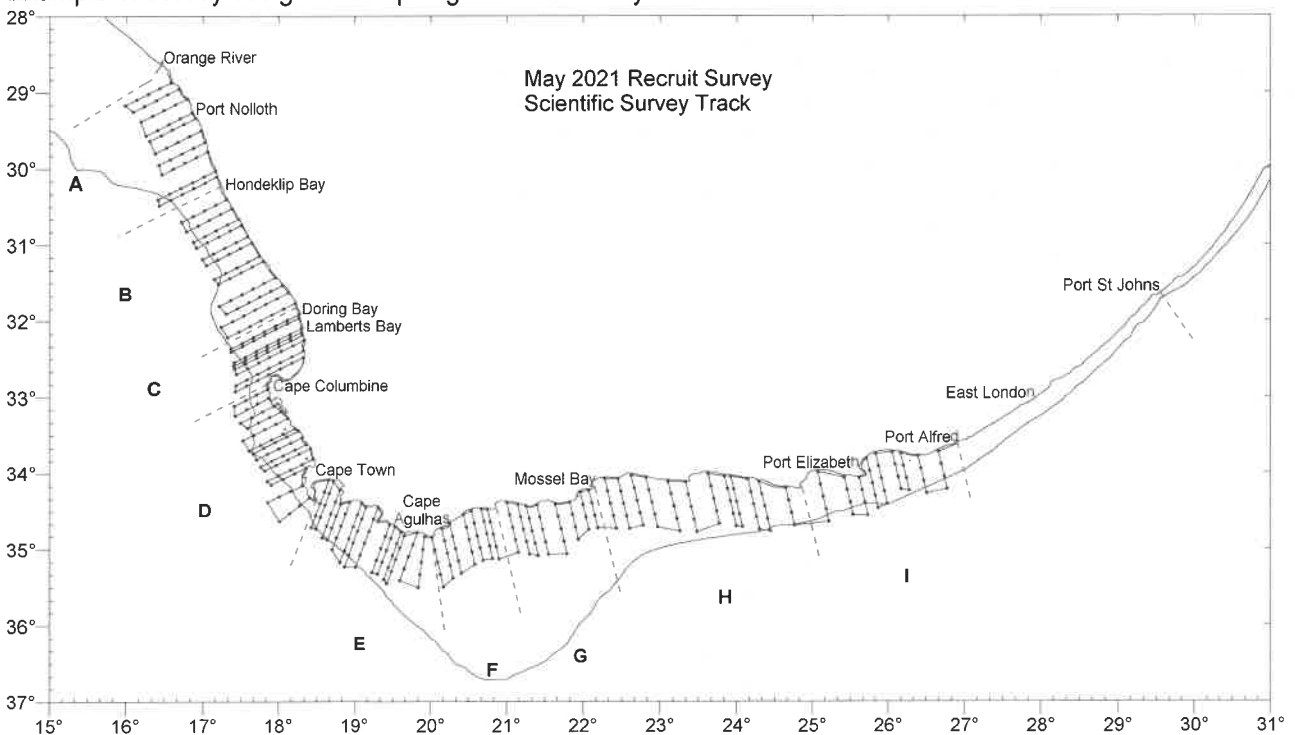
[JRademan@environment.gov.za](mailto:JRademan@environment.gov.za)

## Annexure A

Example of survey design for the hydro-acoustic pelagic biomass survey.

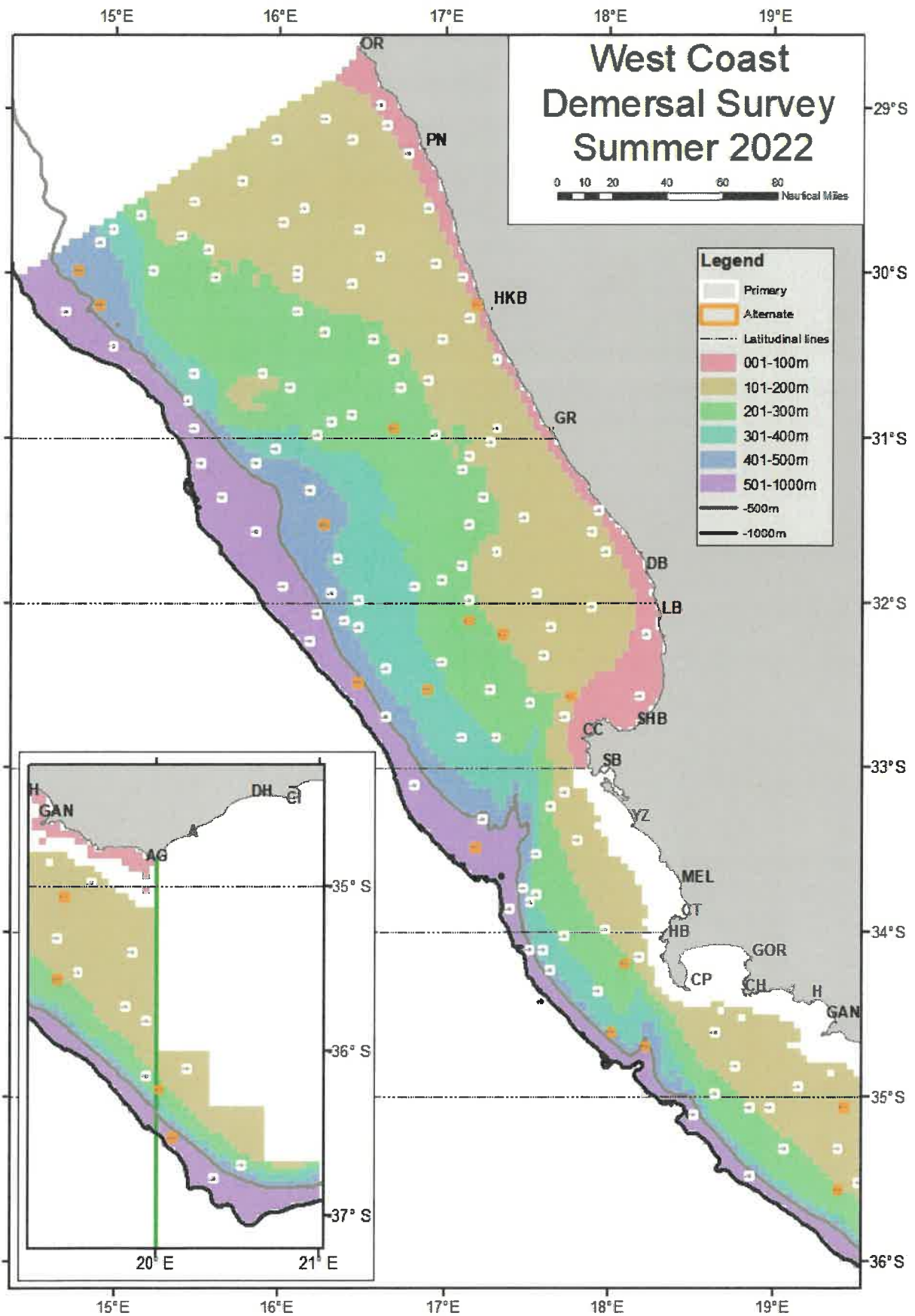


Example of survey design for the pelagic recruit survey.



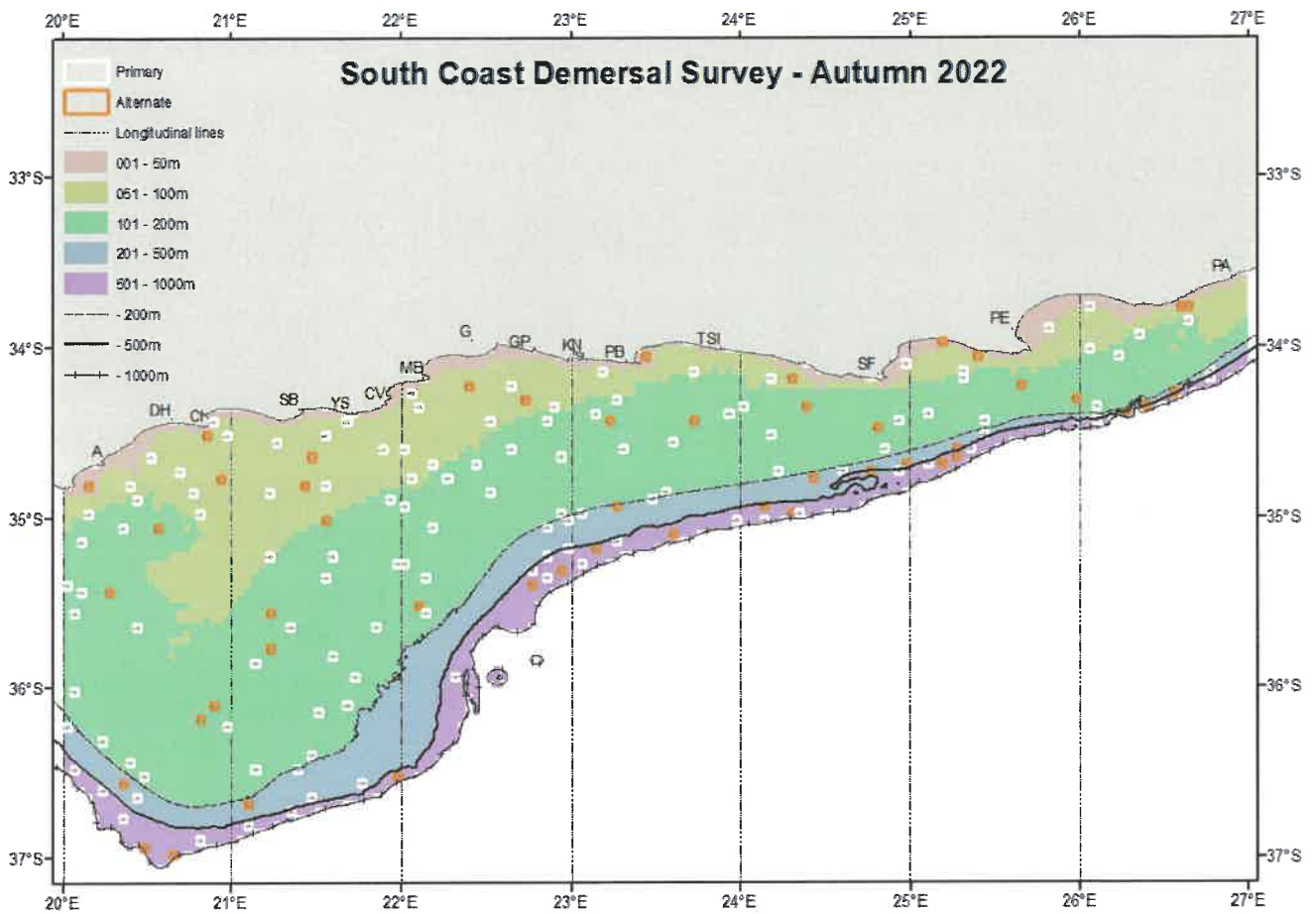
TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER/S TO PROVIDE THE MARINE LIVING RESOURCES FUND (MLRF), THE DEPARTMENT OF ENVIRONMENT FORESTRY AND FISHERIES ("THE DEPARTMENT"/DEFF) WITH VESSEL/S TO CONDUCT THE HYDRO-ACOUSTIC PELAGIC BIOMASS SURVEY BETWEEN OCTOBER AND DECEMBER 2021, THE HYDRO-ACOUSTIC PELAGIC RECRUIT SURVEY BETWEEN MAY AND JULY 2022, THE WEST COAST DEMERSAL TRAWL SURVEY BETWEEN JANUARY AND MARCH 2022, AND THE SOUTH COAST DEMERSAL TRAWL SURVEY BETWEEN APRIL AND MAY 2022.

Example of survey design for west coast demersal survey design



TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER/S TO PROVIDE THE MARINE LIVING RESOURCES FUND (MLRF), THE DEPARTMENT OF ENVIRONMENT FORESTRY AND FISHERIES ("THE DEPARTMENT"/DEFF) WITH VESSEL/S TO CONDUCT THE HYDRO-ACOUSTIC PELAGIC BIOMASS SURVEY BETWEEN OCTOBER AND DECEMBER 2021, THE HYDRO-ACOUSTIC PELAGIC RECRUIT SURVEY BETWEEN MAY AND JULY 2022, THE WEST COAST DEMERSAL TRAWL SURVEY BETWEEN JANUARY AND MARCH 2022, AND THE SOUTH COAST DEMERSAL TRAWL SURVEY BETWEEN APRIL AND MAY 2022.

Example of south coast demersal survey design



TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER/S TO PROVIDE THE MARINE LIVING RESOURCES FUND (MLRF), THE DEPARTMENT OF ENVIRONMENT FORESTRY AND FISHERIES ("THE DEPARTMENT"/DEFF) WITH VESSEL/S TO CONDUCT THE HYDRO-ACOUSTIC PELAGIC BIOMASS SURVEY BETWEEN OCTOBER AND DECEMBER 2021, THE HYDRO-ACOUSTIC PELAGIC RECRUIT SURVEY BETWEEN MAY AND JULY 2022, THE WEST COAST DEMERSAL TRAWL SURVEY BETWEEN JANUARY AND MARCH 2022, AND THE SOUTH COAST DEMERSAL TRAWL SURVEY BETWEEN APRIL AND MAY 2022.

## PART A INVITATION TO BID

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)</b>					
BID NUMBER:	MLRF179/21	CLOSING DATE: 8 October 2021	CLOSING TIME:	11:00	
DESCRIPTION	APPOINTMENT OF A SERVICE PROVIDER/S TO PROVIDE THE MARINE LIVING RESOURCES FUND (MLRF), THE DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT ("THE DEPARTMENT"/DFFE) WITH VESSEL/S TO CONDUCT THE HYDRO-ACOUSTIC PELAGIC BIOMASS SURVEY BETWEEN OCTOBER AND DECEMBER 2021, THE HYDRO-ACOUSTIC PELAGIC RECRUIT SURVEY BETWEEN MAY AND JULY 2022, THE WEST COAST DEMERSAL TRAWL SURVEY BETWEEN JANUARY AND MARCH 2022, AND THE SOUTH COAST DEMERSAL TRAWL SURVEY BETWEEN APRIL AND MAY 2022.				
<b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)</b>					
GROUND FLOOR, FORETRUST BUILDING					
MARTIN HAMMERSCHLAG WAY					
FORESHORE, CAPE TOWN ,8001					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>		
CONTACT PERSON	Ms. Ncumisa Matiwane		CONTACT PERSON	Mr. Johan Rademan	
TELEPHONE NUMBER	021- 402 3632		TELEPHONE NUMBER	021- 402 3198	
E-MAIL ADDRESS	nmatiwane@environment.gov.za		E-MAIL ADDRESS	JRademan@environment.gov.za	
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
OSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX]		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	[TICK APPLICABLE BOX]	
	<input type="checkbox"/> Yes	<input type="checkbox"/> No		<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]	
<b>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>					
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**

<b>1. BID SUBMISSION:</b>	
1.1.	BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2.	<b>ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED- (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.</b>
1.3.	THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
1.4.	<b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).</b>
<b>2. TAX COMPLIANCE REQUIREMENTS</b>	
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: .....

## TAX CLEARANCE CERTIFICATE REQUIREMENTS

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

- 1 In order to meet this requirement bidders are required to complete in full the attached form TCC 001 "Application for a Tax Clearance Certificate" and submit it to any SARS branch office nationally. The Tax Clearance Certificate Requirements are also applicable to foreign bidders / individuals who wish to submit bids.
- 2 SARS will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of 1 (one) year from the date of approval.
- 3 The original Tax Clearance Certificate must be submitted together with the bid. Failure to submit the original and valid Tax Clearance Certificate will result in the invalidation of the bid. Certified copies of the Tax Clearance Certificate will not be acceptable.
- 4 In bids where Consortia / Joint Ventures / Sub-contractors are involved, each party must submit a separate Tax Clearance Certificate.
- 5 Copies of the TCC 001 "Application for a Tax Clearance Certificate" form are available from any SARS branch office nationally or on the website [www.sars.gov.za](http://www.sars.gov.za).
- 6 Applications for the Tax Clearance Certificates may also be made via eFiling. In order to use this provision, taxpayers will need to register with SARS as eFilers through the website [www.sars.gov.za](http://www.sars.gov.za).





### Application for a Tax Clearance Certificate

**Purpose**

Select the applicable option  Tenders  Good standing

If "Good standing", please state the purpose of this application

[Empty text box for purpose of application]

**Particulars of applicant**

Name/Legal name (Initials & Surname or registered name) [Grid]

Trading name (if applicable) [Grid]

ID/Passport no [Grid] Company/Close Corp. registered no [Grid]

Income Tax ref no [Grid] PAYE ref no 7 [Grid]

VAT registration no 4 [Grid] SDL ref no L [Grid]

Customs code [Grid] UIF ref no U [Grid]

Telephone no [Grid] Fax no [Grid]

E-mail address [Grid]

Physical address [Grid]

Postal address [Grid]

**Particulars of representative (Public Officer/Trustee/Partner)**

Surname [Grid]

First names [Grid]

ID/Passport no [Grid] Income Tax ref no [Grid]

Telephone no [Grid] Fax no [Grid]

E-mail address [Grid]

Physical address [Grid]

**Particulars of tender** (If applicable)

Tender number

Estimated Tender amount R

Expected duration of the tender  year(s)

**Particulars of the 3 largest contracts previously awarded**

Date started	Date finalised	Principal	Contact person	Telephone number	Amount

**Audit**

Are you currently aware of any Audit investigation against you/the company?  YES  NO  
 If "YES" provide details

**Appointment of representative/agent (Power of Attorney)**

I the undersigned confirm that I require a Tax Clearance Certificate in respect of  Tenders or  Goodstanding.

I hereby authorise and instruct  to apply to and receive from SARS the applicable Tax Clearance Certificate on my/our behalf.

Signature of representative/agent Date

Name of representative/agent

**Declaration**

I declare that the information furnished in this application as well as any supporting documents is true and correct in every respect.

Signature of applicant/Public Officer Date

Name of applicant/Public Officer

**Notes:**

- It is a serious offence to make a false declaration.
- Section 75 of the Income Tax Act, 1962, states: Any person who
  - fails or neglects to furnish, file or submit any return or document as and when required by or under this Act; or
  - without just cause shown by him, refuses or neglects to-
    - furnish, produce or make available any information, documents or things;
    - reply to or answer truly and fully, any questions put to him ...
 As and when required in terms of this Act ... shall be guilty of an offence ...
- SARS will, under no circumstances, issue a Tax Clearance Certificate unless this form is completed in full.**
- Your Tax Clearance Certificate will only be issued on presentation of your South African Identity Document or Passport (Foreigners only) as applicable.

**PRICING SCHEDULE**  
(Professional Services)

NAME OF BIDDER: .....	BID NO.: <b>MLRF179/21</b>
CLOSING TIME <b>11H00</b>	CLOSING DATE: <b>08 OCTOBER 2021</b>

OFFER TO BE VALID FOR **120 DAYS** FROM THE CLOSING DATE OF BID.

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY **(ALL APPLICABLE TAXES INCLUDED)
---------	-------------	--

**APPOINTMENT OF A SERVICE PROVIDER/S TO PROVIDE THE MARINE LIVING RESOURCES FUND (MLRF), THE DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT ("THE DEPARTMENT"/DFFE) WITH VESSEL/S TO CONDUCT THE HYDRO-ACOUSTIC PELAGIC BIOMASS SURVEY BETWEEN OCTOBER AND DECEMBER 2021, THE HYDRO-ACOUSTIC PELAGIC RECRUIT SURVEY BETWEEN MAY AND JULY 2022, THE WEST COAST DEMERSAL TRAWL SURVEY BETWEEN JANUARY AND MARCH 2022, AND THE SOUTH COAST DEMERSAL TRAWL SURVEY BETWEEN APRIL AND MAY 2022.**

1. The accompanying information must be used for the formulation of proposals.
2. Bidders are required to indicate a ceiling price based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project. R.....

3. PERSONS WHO WILL BE INVOLVED IN THE PROJECT AND RATES APPLICABLE (CERTIFIED INVOICES MUST BE RENDERED IN TERMS HEREOF)

4. PERSON AND POSITION	HOURLY RATE	DAILY RATE
.....	R.....	.....
.....	R.....	.....
.....	R.....	.....
.....	R.....	.....
.....	R.....	.....

5. PHASES ACCORDING TO WHICH THE PROJECT WILL BE COMPLETED, COST PER PHASE AND MAN-DAYS TO BE SPENT

.....	R.....	..... days
.....	R.....	..... days
.....	R.....	..... days
.....	R.....	..... days

5.1 Travel expenses (specify, for example rate/km and total km, class of airtravel, etc). Only actual costs are recoverable. Proof of the expenses incurred must accompany certified invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
.....	.....	.....	R.....
.....	.....	.....	R.....
.....	.....	.....	R.....
.....	.....	.....	R.....

Name of Bidder: .....

TOTAL: R.....

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

5.2 Other expenses, for example accommodation (specify, eg. Three star hotel, bed and breakfast, telephone cost, reproduction cost, etc.). On basis of these particulars, certified invoices will be checked for correctness. Proof of the expenses must accompany invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
.....	.....	.....	R.....
.....	.....	.....	R.....
.....	.....	.....	R.....
.....	.....	.....	R.....

TOTAL: R.....

- 6. Period required for commencement with project after acceptance of bid .....  
.....
- 7. Estimated man-days for completion of project .....  
.....
- 8. Are the rates quoted firm for the full period of contract? \*YES/NO
- 9. If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index. ....  
.....  
.....  
.....

\*[DELETE IF NOT APPLICABLE]

Any enquiries regarding bidding procedures may be directed to the –

**DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT**

Contact Person: Ncumisa Matiwane  
Contact Number: 021 402 3632  
E-Mail: [NMatiwane@environment.gov.za](mailto:NMatiwane@environment.gov.za)

**Or for technical information**

Contact Person: Johan Rademan  
Contact Number: 021 402 3198  
E-Mail: [JRademan@environment.gov.za](mailto:JRademan@environment.gov.za)

## DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state<sup>1</sup>, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-

- the bidder is employed by the state; and/or
- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

2. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

2.1 Full Name of bidder or his or her representative: .....

2.2 Identity Number: .....

2.3 Position occupied in the Company (director, trustee, shareholder<sup>2</sup>): .....

2.4 Company Registration Number: .....

2.5 Tax Reference Number: .....

2.6 VAT Registration Number: .....

2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

<sup>1</sup>"State" means –

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

<sup>2</sup>"Shareholder" means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.

2.7 Are you or any person connected with the bidder presently employed by the state? **YES / NO**

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member: .....

Name of state institution at which you or the person connected to the bidder is employed : .....

Position occupied in the state institution: .....

Any other particulars:

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

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? **YES / NO**

2.7.2.1 If yes, did you attached proof of such authority to the bid document? **YES / NO**

(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.

2.7.2.2 If no, furnish reasons for non-submission of such proof:

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

2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months? **YES / NO**

2.8.1 If so, furnish particulars:

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

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

2.9.1 If so, furnish particulars.

.....



**4 DECLARATION**

I, THE UNDERSIGNED (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT.  
I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF  
PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION  
PROVE TO BE FALSE.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of bidder



**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL  
PROCUREMENT REGULATIONS 2017**

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

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

**1. GENERAL CONDITIONS**

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

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

1.2

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

1.3 Points for this bid shall be awarded for:

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

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

	POINTS
<b>PRICE</b>	
<b>B-BBEE STATUS LEVEL OF CONTRIBUTOR</b>	
<b>Total points for Price and B-BBEE must not exceed</b>	<b>100</b>

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

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



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

## 5. BID DECLARATION

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

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

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

## 7. SUB-CONTRACTING

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

(**Tick applicable box**)

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

7.1.1 If yes, indicate:

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

(**Tick applicable box**)

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

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

Designated Group: An EME or QSE which is at last 51% owned by:	EME √	QSE √
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		

Black people who are military veterans		
<b>OR</b>		
Any EME		
Any QSE		

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

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

8.2 VAT registration number:.....

8.3 Company registration number:.....

**8.4 TYPE OF COMPANY/ FIRM**

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

[TICK APPLICABLE BOX]

**8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

.....

.....

.....

.....

.....

**8.6 COMPANY CLASSIFICATION**

- Manufacturer
- Supplier
- Professional service provider
- Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

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

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

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a

fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –

- (a) disqualify the person from the bidding process;
- (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
- (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
- (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
- (e) forward the matter for criminal prosecution.

WITNESSES
1. ....
2. ....

.....
SIGNATURE(S) OF BIDDERS(S)
DATE: .....
ADDRESS .....
.....
.....

## DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- 1 This Standard Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be disregarded if that bidder, or any of its directors have-
  - a. abused the institution's supply chain management system;
  - b. committed fraud or any other improper conduct in relation to such system; or
  - c. failed to perform on any previous contract.
- 4 **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	Yes	No
4.1	<p>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?</p> <p><b>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</b></p> <p>The Database of Restricted Suppliers now resides on the National Treasury's website(<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	<p>Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</p> <p><b>The Register for Tender Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b></p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	<p>Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		

4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

**SBD 8**

**CERTIFICATION**

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

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

.....  
**Signature**

.....  
**Date**

.....  
**Position**

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

Js365bW

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

- 1 This Standard Bidding Document (SBD) must form part of all bids<sup>1</sup> invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).<sup>2</sup> Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
  - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
  - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

<sup>1</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

<sup>2</sup> Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.



**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

I, the undersigned, in submitting the accompanying bid:

\_\_\_\_\_

(Bid Number and Description)

in response to the invitation for the bid made by:

\_\_\_\_\_

(Name of Institution)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: \_\_\_\_\_ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
  - (a) has been requested to submit a bid in response to this bid invitation;
  - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
  - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium<sup>3</sup> will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - (a) prices;
  - (b) geographical area where product or service will be rendered (market allocation)
  - (c) methods, factors or formulas used to calculate prices;
  - (d) the intention or decision to submit or not to submit, a bid;
  - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
  - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

<sup>3</sup> Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

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

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

Js914w 2

**THE NATIONAL TREASURY**

**Republic of South Africa**



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**GOVERNMENT PROCUREMENT:  
GENERAL CONDITIONS OF CONTRACT**

**July 2010**

**GOVERNMENT PROCUREMENT**  
**GENERAL CONDITIONS OF CONTRACT**  
**July 2010**

**NOTES**

The purpose of this document is to:

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

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

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

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## General Conditions of Contract

### 1. Definitions

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

RSA.

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



obligations of the supplier covered under the contract.

1.25 “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.

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

may be due to him

**25. Force Majeure**

- 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- 25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

**26. Termination for insolvency**

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

**27. Settlement of Disputes**

- 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- 27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 27.5 Notwithstanding any reference to mediation and/or court proceedings herein,
- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
  - (b) the purchaser shall pay the supplier any monies due the supplier.

**28. Limitation of liability**

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



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

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

