



**Request for Proposal: Public Private
Partnership for the Design,
Construction, Operation, Maintenance
and Finance of a Suitable and
Sustainable Working Environment for
the Department of Foreign Affairs of
the Government of the Republic of
South Africa**

15 August 2005

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1 Overview of the RFP

Whereas the content contained within this RFP has been prepared in accordance with the requirements of Module 5: PPP Procurement of the National Treasury's PPP Manual issued as Practice Note number 6 of 2004, the flow of this RFP may differ. The flow of this RFP is as follows:

- a) **paragraph 2** provides the glossary of terms detailing the defined terms used within this RFP. The defined terms are conformed to those terms used in the PPP Agreement. Where the usage of the defined terms differ between either the RFP and the PPP Agreement or between the RFQ and the RFP a footnote has been included in this RFP to explain such differences;
- b) **paragraph 3** provides the terms and conditions in terms of which the Bidder submits its RFP Bid;
- c) **paragraph 4** provides the general information to the Bidder and includes, *inter alia*, the Project scope, Project Goals, an overview of the work performed by the Department in relation to the Project Site and an overview of the DBSA Funding Offer;
- d) **paragraph 5** provides the Essential Minimum Requirements the Bidder must include in its RFP Bid to be deemed to be a Compliant Bid. The paragraph furthermore provides the terms for the submission of a Variant Bid;
- e) **paragraph 6** provides an overview of the specification of the Services required by the Department;
- f) **paragraph 7** provides the legal requirements to be met by the Bidder;
- g) **paragraph 8** provides the commitments required by the Bidder to be included in its RFP Bid;
- h) **paragraph 9** provides the instructions to the Bidder on the submission of the Bid;
- i) **paragraph 10** provides the indicative Evaluation Criteria to be used by the Department in evaluating the Bidder's RFP Bid;
- j) **paragraph 11** provides the scoring methodology to be used by the Department in scoring the Bidder's RFP Bid;
- k) **Annexures A to F** provide the details of what is required to be included by the Bidder in its RFP Bid;
- l) **Annexures G and H** provide details of the Data Room and the form required to be submitted to the Department prior to the Bidder accessing the Data Room;
- m) **Annexures I to M** are required to be completed by the Bidder and/ or the applicable members of the Bidder and returned with its RFP Bid;
- n) **Annexure N** attaches the DBSA's Term Sheets;
- o) **Annexure O** attaches the PPP Agreement checklist; and
- p) **Annexure P** attaches the PPP Agreement.

2 Glossary of Terms

For purposes of this document, the following terms shall have the meanings assigned hereunder, unless the context requires otherwise:

<i>Defined term/Acronym</i>	<i>Meaning</i>
Active Black Equity	Black Equity who will participate directly in the day-to-day management and operations of the Project on the terms described in Schedule 17 (<i>Target Group Terms</i>) to the PPP Agreement ¹
Advisory Team	The Transaction Advisor and the team of specialists subcontracted to the Transaction Advisor being ME Corporation CC, Vela VKE Consulting Engineers (Pty) Ltd, Sangena Investments (Pty) Ltd, Resolve Workplace Solutions (Pty) Ltd, Deneys Reitz Inc and Vikela Marsh (Pty) Ltd
Affordability	Means that the financial commitments to be incurred by the Department in terms of the PPP Agreement can be met by funds: <ul style="list-style-type: none"> (a) designated within the Department's existing budget for the Project; and/or (b) destined for the Department in accordance with the National Treasury's future budgetary projections for the Department; and "Affordable" shall have a similar meaning
Affiliate	Any person that directly or indirectly through any one or more intermediaries Controls the person in question
Balanced Scorecard	A framework setting out a set of standardised elements and benchmarks to measure and evaluate the attainment of empowerment of Target Groups in the Project, as included in Annexure D (<i>Target Group requirements</i>), Table 11 (<i>Project Balanced Scorecard</i>) and Schedule 17 (<i>Target Group Terms</i>) to the PPP Agreement

¹ Definition differs from the RFQ: the inclusion of the share capital of any Committed Subcontractor has been removed from the definition and the definition has been conformed with Standardisation.

<i>Defined term/Acronym</i>	<i>Meaning</i>
Bidder	Any bidder who submits a RFP Bid
Bidders' Briefing Session	Means the sessions hosted by the Department to interact with the Bidder which may be held either individually or with all Bidders together, to disseminate further instructions, programme changes, information updates and clarifications in relation to the Project
Black Enterprise	An Enterprise that is at least 50,1% beneficially owned by Black People and in which Black People have substantial Management Control. Such beneficial ownership may be held directly or through other Black Enterprises ²
Black Equity	The voting Equity held by Black Shareholders from time to time
Black People	African, Coloured and Indian South African citizens, and "Black Person" and "Black People" means any such citizen
Black Shareholder	Any Shareholder that is a Black Person or a Black Enterprise
Black SMME	An SMME at least 50,1% owned by Black Persons and in which Black People have substantial Management Control
Black Women	African, Coloured and Indian Women
Briefing Notes	Written notices issued by the Department to disseminate further instructions, programme changes, information updates and clarifications in relation to the Project, each entitled "Briefing Note to the RFP", and to be consecutively numbered and referenced to the Project
Broad Based Black Economic Empowerment	Has the meaning given thereto in the Broad-based Black Economic Empowerment Act, 2003, read together with the Code of Good Practice for Black Economic Empowerment in Public Private Partnerships

² Definition differs from the RFQ: "Management Control" has been qualified with the word "substantial".

<i>Defined term/Acronym</i>	<i>Meaning</i>
Business Day	Any day except a Saturday, Sunday or public holiday in South Africa
Change in Control	Any change whatsoever in Control whether effected directly or indirectly
Close Date	That date and time specified in paragraph 9.4 (a), as may be extended in accordance with paragraph 9.4 (c)
Code of Good Practice for Black Economic Empowerment in Public Private Partnerships	Module 2 of National Treasury's PPP Manual, issued as National Treasury PPP Practice Note Number 3 of 2004, in terms of Section 76(4)(g) of the PFMA
Committed Subcontractors	Enterprises that have committed to participate in the PPP as subcontractors and, either such Enterprise or its Affiliate, to participate as shareholders in the SPV and have authorised the Lead Member in making the RFP Bid ³
Compliant Bid	A RFP Bid being in compliance with the Essential Minimum Requirements
Control	In relation to any entity, the ability directly or indirectly to direct or cause the direction of the votes attaching to the majority of its issued shares or interests carrying voting rights, or to appoint or remove or cause the appointment or removal of any directors (or equivalent officials) or those of its directors (or equivalent officials) holding the majority of the voting rights on its board of directors (or equivalent body) ⁴
D&C Subcontract	The written agreement between the Private Party and the D&C Subcontractor in respect of the Works

³ Definition differs from the RFQ: it is not a requirement that, in order to qualify as a Committed Subcontractor, the shareholder in the SPV (and potentially the Private Party) and either the D&C Subcontractor or the Operations Subcontractor, as the case may be, are the same person, there may be an Affiliate relationship.

⁴ Definition differs from the RFQ: the definition has been conformed with Standardisation.

Defined term/Acronym	Meaning
D&C Subcontractor	The Enterprise being the person appointed by the Private Party to undertake the Works, and who is required to be comprised of one or more Committed Subcontractors ⁵
Data Room	The data room to be made available to the Bidder in accordance with the provisions of paragraph 4.9.3 for conducting a due diligence in respect of the Project
DBSA	The Development Bank of Southern Africa Limited, a company established under the provisions of The Development Bank of Southern Africa Act, 1997 and defined as a major public entity in terms of Schedule 2 of the PFMA
DBSA Agreements	The agreements relating to the financing provided by the DBSA to Target Groups holding Equity in the Private Party as listed in Schedule 26 (<i>DBSA Agreements</i>) of the PPP Agreement
DBSA Funding Offer	The funding offer prepared by the DBSA as contemplated in paragraph 4.11.2 and Annexure N (<i>DBSA Funding Offer</i>)
DEAT	The Department of Environmental Affairs and Tourism of the Government as contemplated in section 7(2) and Schedule 1 of the Public Service Act, 1994
Department	The Department of Foreign Affairs of the Government of the Republic of South Africa as contemplated in section 7(2) and Schedule 1 of the Public Service Act, 1994
Department Employees	All persons employed by the Department
Development Agreement	Shall have the meaning given thereto in paragraph 4.8.2 of this RFP
Development Period	The period from the Effective Date up to and excluding the Scheduled Service Commencement Date (as defined in the PPP Agreement) in respect of the last Phase, unless the PPP Agreement is terminated

⁵ Definition differs from the RFQ: the definition has been conformed with Standardisation.

<i>Defined term/Acronym</i>	<i>Meaning</i>
	earlier in accordance with its terms
Director General	The director general of the Department
Disabled Persons	Persons who have a long-term or recurring physical or mental impairment which substantially limits their prospects of entry into or advancement in, employment ⁶
Disabled Person Enterprise	A Enterprise that is at least 50,1% beneficially owned by Disabled Persons and in which Disabled Persons have Management Control. Such ownership may be held directly or through other Disabled Person Enterprises
DPW	The Department of Public Works of the Government of the Republic of South Africa as contemplated in section 7(2) and Schedule 1 of the Public Service Act, 1994
ECA	Environmental Conservation Act, 1989
Effective Date	The date of signature of the PPP Agreement by the last signing party, or such other date as such parties may agree ⁷
EIA	Environmental impact assessment conducted in terms of the ECA
Enterprise	A company, close corporation, juristic person, trust, partnership, joint venture, association or sole proprietor, whether or not having separate legal personality ⁸

⁶ Definition differs from the RFQ: the definition has been amended taking into account prevailing Government policies and practices.

⁷ Definition differs from the RFQ: the definition has been conformed with Standardisation. In both the RFP and the PPP Agreement the Effective Date has been assumed to be the Signature Date, which is in accordance with Standardisation.

⁸ Definition differs from the RFQ: the definition now explicitly includes a sole proprietor and in addition, it is not a requirement that such Enterprise have a separate legal personality.

<i>Defined term/Acronym</i>	<i>Meaning</i>
Equity	The entire issued share capital (including any share premiums) and shareholders' loans ⁹ of the relevant entity as at the relevant date
Equity Members	Either individuals or Enterprises that have committed to participate in this Project as shareholders in the SPV and have authorised the Lead Member in making its RFP Bid ¹⁰
Essential Minimum Requirements	The minimum requirements to be met in respect of each Compliant Bid, as set out in paragraph 5
Evaluation Committee	A committee or committees constituted by the Department for the purpose of evaluating the RFP Bids, as set out in paragraph 10
Evaluation Criteria	Those criteria used by the Evaluation Committee/s for the purposes of evaluating the RFP Bid, as set out in paragraph 10
Facilities	The buildings and other facilities (including the Guest Houses) together with all supporting infrastructure, plant and equipment which accede to each Project Site, as required to enable the Private Party to exercise its rights and perform its obligations included in the Project Deliverables and "Facility" shall be construed accordingly
Facilities Assets	All assets as required to undertake the Project which do not form part of or accede to the Facilities, including, without limitation, assets required for the operation and/or maintenance of the Facilities, any books and records maintained in respect of the Project and the Intellectual Property, but excluding all cash, as more particularly described in Schedule 4 (<i>Facilities Assets</i>) to the PPP Agreement, such assets to be owned by the Private Party
Feasibility Study	The feasibility study undertaken by the Advisory Team in respect of

⁹ Definition differs from the PPP Agreement: the definition of Equity per the PPP Agreement does not include shareholders' loans, for the purposes of this RFP both share capital (including share premium) and shareholders' loans have been incorporated into the definition of Equity.

¹⁰ Definition differs from the RFQ: all Equity Members of the SPV are now required to be shareholders.

<i>Defined term/Acronym</i>	<i>Meaning</i>
	the Project, in accordance with the Treasury Regulations
Feasibility Study Guidelines	National Treasury PPP Unit: Public-Private Partnership Manual, National Treasury PPP Practice Notes issued in terms of the Public Finance Management Act, Module 4: PPP Feasibility Study (Practice Note number 05 of 2004)
Financial Close	The date on which the Private Party is entitled to make its first draw down under the Financing Agreements
Financial Model	The financial model as contemplated in terms of Annexure E (<i>Financial and Insurance requirements</i>) to this RFP ¹¹
Financing Agreements	The agreements relating to the financing provided by the Lenders to the Private Party listed in Schedule 11 (<i>Finance Agreements</i>) and Schedule 26 (<i>DBSA Agreements</i>) to the PPP Agreement and which include the agreements entered into between DBSA and the Sub-subcontractors and/ or the Target Group Equity Members ¹²
FSI	Foreign Service Institute of the Department, being responsible for all training of staff and diplomats
GDACE	The Gauteng Department of Agriculture, Conservation and Environment of the Gauteng Provincial Government of the Republic of South Africa as contemplated in section 7(2) and Schedule 1 of the Public Service Act, 1994
Government	The Government of South Africa

¹¹ Definition differs from the PPP Agreement: the Financial Model defined for the purposes of the RFP refers to the Bidder's financial model as submitted in its RFP Bid, the financial model defined for the purpose of the PPP Agreement refers to the so-called "banker's base case financial model".

¹² Definition differs from the PPP Agreement: due to the extensive discussion in this RFP on the DBSA Agreements the definition of Financing Agreements as set out herein is wider than that used in the PPP Agreement. The end result is the same as the PPP Agreement, i.e. both the financing from the Lenders and DBSA funding are made reference to, albeit in a different manner.

Defined term/Acronym	Meaning
Guest Houses	Means: <ul style="list-style-type: none"> (a) the guest house to be situate at the Soutpansberg Site; and (b) the guest house situate at the Waterkloof Site; each as more fully described in the Output Specifications
Heritage Act	National Heritage Resources Act, 1994
ICT	Information and communication technology
ICT Scope of Work	The elements of the ICT to be included in the Project shall be limited to the provision of space relevant to ICT, the telephony equipment, all data cabling, specified audio-visual presentation equipment and the photocopying machines, as more fully described in Schedule 3 (<i>Information Technology Infrastructure</i>) to the PPP Agreement
Intellectual Property	All intellectual property whatsoever used from time to time in connection with undertaking the Project Deliverables, whether capable of registration, registered or not
Interested and Affected Parties	Individuals or groups concerned with or affected by an activity listed as such in terms of the ECA. These include the authorities, local communities, investors, work force, consumers, environmental interest groups and the general public
LRA	Labour Relations Act, 1995
Lead Member	The Enterprise authorised by the persons constituting a Bidder to sign its RFP Bid and bind the members of that Bidder
Legal Advisor	Deneys Reitz Inc.
Lenders	Any person providing financing to the Private Party under the Financing Agreements, other than a person having Equity, but including the DBSA to the extent that it is providing financing to the Private Party

Defined term/Acronym	Meaning
Loan Funding Assistance	The element of the DBSA Funding Offer relating to loan finance to assist a Target Group to purchase an Equity share in the Private Party, as contemplated in paragraph 4.11.2.2
Management Control	In relation to any Enterprise, the ability to direct or cause the direction of the business and management policies or practices of that Enterprise ¹³
Minister	The minister of the Department
MSP	Master systems plan in respect of the Department's ICT
National Treasury	The national treasury of South Africa as established under the provisions of section 5 of the PFMA as contemplated in section 7(2) and Schedule 1 of the Public Service Act, 1994
NIA	The National Intelligence Agency, established pursuant to Section 3 of the Intelligence Service Act, 1994 as contemplated in section 7(2) and Schedule 1 of the Public Service Act, 1994
Operations Subcontract	The written agreement between the Private Party and the Operations Subcontractor in respect of the Services
Operations Subcontractor	The Enterprise being the person appointed by the Private Party to perform the Services, and who is required to be comprised of one or more Committed Subcontractors ¹⁴
Ordinance	Town Planning and Townships Ordinance (Transvaal), 1986
Output Specifications	The specifications in respect of the Project, as stipulated in Schedule 6 (<i>Output Specifications</i>) to the PPP Agreement
Performance Bond	The element of the DBSA Funding Offer relating to performance

¹³ Definition differs from the RFQ: the definition has been conformed with Standardisation.

¹⁴ Definition differs from the RFQ: the definition of "Facilities Management Contractor" as defined in the RFQ has now been changed to "Operations Subcontractor" so as to conform with Standardisation.

<i>Defined term/Acronym</i>	<i>Meaning</i>
Assistance	bonds in respect of both the D&C Subcontract and the Operations Subcontract, as contemplated in paragraph 4.11.2.3
Performance Standards	The performance levels to be achieved by the Private Party in providing the Project Deliverables, as set out in Schedule 7 (<i>Performance Standards</i>) to the PPP Agreement
Phase	Each portion of the Facilities as contemplated in paragraph 4.6 below and as set out in Schedule 13 (<i>Phases</i>) of the PPP Agreement
PFMA	Public Finance Management Act, 1999
PMC	The project management committee established with members of the Department, PPP Unit, DPW, and the members of the Advisory Team, chaired by the Project Officer
Post-Qualified Bidder	A Bidder having experienced a Change in Control a change in structure, or a change in Management Control, which change has been approved by the Department in terms of paragraph 3.4. ¹⁵
PPP Agreement	The public private partnership agreement between the Parties, being a public private partnership agreement as contemplated in Treasury Regulation 16 of the Treasury Regulations for Departments, Trading Entities, Constitutional Departments and Public Entities issued under the PFMA, together with the Schedules ¹⁶
PPP Unit	That unit established by the National Treasury to regulate PPPs
Preferred Bidder	Means the Bidder, including any bidding consortium, to be appointed as preferred bidder in terms of regulation 16.5.4 of the Treasury Regulations ¹⁷

¹⁵ Definition differs from the RFQ: the definition has been amended in line with the changes of definition of "Control", "Change in Control" and "Management Control".

¹⁶ Definition differs from the RFQ: the definition has been amended in line with the Treasury Regulations.

¹⁷ Definition differs from the RFQ: the definition has been amended in line with the Treasury

<i>Defined term/Acronym</i>	<i>Meaning</i>
Private Party	The Preferred Bidder after Effective Date ¹⁸
Project	<p>The provision by the Private Party of the Project Deliverables to the Department including, <i>inter alia</i>:</p> <ul style="list-style-type: none"> (a) carrying out the Works in respect of the Facilities; (b) undertaking Relocation; and (c) providing the Services at the Facilities <p>each pursuant to and in accordance with the provisions of the PPP Agreement and the other Transaction Documents</p>
Project Deliverables	The carrying out of the Works, the installation, commissioning, operation and maintenance of the Facilities including the repair, renewal or replacement thereof, the management and provision of the Services and the exercise and performance of all other rights and obligations of the Private Party under the PPP Agreement from time to time
Project Documents	The Shareholders Agreement (as defined in the PPP Agreement), the D&C Subcontract, the Operations Subcontract and all other contracts described in Schedule 2 (<i>Project Documents</i>) of the PPP Agreement ¹⁹
Project Goals	The overall objectives the Department wishes to achieve upon completion of the Project as detailed in paragraph 4.2.2
Project Plan	The project plan prepared by the Bidder, in accordance with the requirements of Annexure A (<i>Overall integrated Project solution and Project management requirements</i>), and forming part of its RFP Bid indicating the Bidder's envisaged time frame from RFP Bid submission through to commencement of the Service Period

Regulations.

¹⁸ Definition differs from the RFQ: editorial amendments.

¹⁹ Definition differs from the PPP Agreement: the terms D&C Subcontract and Operations Subcontract are used individually as opposed to using the collective term Subcontracts per the PPP Agreement.

Defined term/Acronym	Meaning
Project Officer	The person (as required in terms of Treasury Regulation 16) who is responsible for the management of the Project on behalf of the Department, being Ms B Africa
Project Site	Means: (a) the Soutpansberg Site; and (b) the Waterkloof Site
Project Term	The period from the Effective Date to the Expiry Date (as defined in the PPP Agreement) or the Termination Date (as defined in the PPP Agreement), whichever occurs first
Public Private Partnership or PPP	A public private partnership, as contemplated under the Treasury Regulations
RFP Bid	The response by the Bidder to this RFP
RFQ Bid	The response by a bidder to the RFQ
Relocation	The physical move and the relevant logistical arrangements of the Department and the Department Employees from such office accommodation as they may then occupy, to the relevant Phase, which shall commence after the issue of a Completion Certificate (as defined in the PPP Agreement) in respect of such Phase but prior to the issue of the Availability Certificate (as defined in the PPP Agreement) and the Service Commencement Date in respect of that Phase, in accordance with the Relocation Principles (as defined in the PPP Agreement) as contemplated in Schedule 16 (<i>Relocation Principles</i>) of the PPP Agreement
Request for Qualification or RFQ	The document entitled "Request for Qualification : Public Private Partnership for the Design, Construction, Operation, Maintenance and Finance of Serviced Accommodation for the Department of Foreign Affairs of the Government of the Republic of South Africa", issued by the Department dated 22 November 2004 as well as all Briefing Notes issued in respect thereof

Defined term/Acronym	Meaning
Request for Proposal or RFP	<p>This document together with its annexures, namely:</p> <p>Annexure A: Overall integrated Project solution and Project management requirements</p> <p>Annexure B: Technical requirements</p> <p>Annexure C: Legal requirements</p> <p>Annexure D: Target Group requirements</p> <p>Annexure E: Financial and Insurance requirements</p> <p>Annexure F: Human resources requirements</p> <p>Annexure G: Data Room list</p> <p>Annexure H: Data Room access form</p> <p>Annexure I: Declaration by Bidder</p> <p>Annexure J: Letter of intent</p> <p>Annexure K: Pro-forma bid bond</p> <p>Annexure L: Confidentiality undertaking</p> <p>Annexure M: Standard bidding documents</p> <p>Annexure N: DBSA Funding Offer</p> <p>Annexure O: PPP Agreement checklist</p> <p>Annexure P: PPP Agreement</p>
Reserve Bidder	<p>A Bidder having submitted an RFP Bid not initially selected as Preferred Bidder, but subsequently selected to replace the Preferred Bidder and to enter into negotiations with the Department for the provision of the Works and Services by way of a PPP should the Preferred Bidder's status be lost at any stage prior to Effective Date</p>
SAHRA	<p>The South African Heritage Resources Agency</p>
Service Period	<p>The period from the Scheduled Service Commencement Date (as defined in the PPP Agreement) in respect of the last Phase until the Expiry Date (as defined in the PPP Agreement), unless the PPP</p>

<i>Defined term/Acronym</i>	<i>Meaning</i>
	Agreement is terminated earlier in accordance with its terms
Services	The operational and facilities management services to be provided by or on behalf of the Private Party for the Department as set forth in the Output Specifications in order to meet the Performance Standards, as may be subsequently amended in accordance with the PPP Agreement, and more fully described in paragraph 6 of this RFP ²⁰
SITA	The State Information Technology Agency
Shareholders	The holders of the Equity
SMME	In respect of any business, trade, undertaking or other Enterprise which is directly owned and managed by one or more natural persons and which has: <ul style="list-style-type: none"> (a) less than 50 full-time employees; (b) an annual turnover of less than R6 000 000 (indexed to CPIX as contemplated in the PPP Agreement); and (c) gross asset value (immovable property included) of less than R1 000 000 (indexed to CPIX as contemplated in the PPP Agreement)
South Africa	The Republic of South Africa
South African	A citizen of South Africa
Soutpansberg Property	The portion of Portion 25 (Remaining Extent) of the farm Rietfontein number 321, registration division JR, Pretoria, owned by the Government of the Republic of South Africa under the title deed T8769/1928 and measuring 151,7447 hectares ²¹
Soutpansberg Site	That part of the Soutpansberg Property, on which the Project is to be undertaken as demarcated in Schedule 12: Part 1 (<i>Soutpansberg Site</i>

²⁰ Definition differs with the RFQ: the definition has been conformed with Standardisation.

²¹ Definition differs from the RFQ: a distinction has been drawn between the "Soutpansberg Site" being the 10 hectare portion of the "Soutpansberg Property" being 151,7447 hectares in extent.

<i>Defined term/Acronym</i>	<i>Meaning</i>
	<i>Description</i>) to the PPP Agreement
Special Purpose Vehicle or SPV	A limited liability company to be incorporated by the Private Party in accordance with the company laws of South Africa, for the purpose of entering into and implementing the PPP Agreement
Standardisation	The Standardised Public Private Partnership Provisions issued as National Treasury PPP Practice Note number 1 of 2004, dated 11 March 2004
Strategic Plan	The 2003-2005 Strategic Plan of the Department
State Tender Board	The body created pursuant to the State Tender Board Act, 1968 and its successor/s after its demise in 2004
Sub-subcontract ²²	Means, depending on the context, the subcontract between the Target Group Enterprise and the D&C Subcontractor or the Operations Subcontractor, as the case may be, pursuant to which the Target Group Enterprise will undertake certain aspects of the D&C Subcontract or Operations Subcontract, as the case may be
Sub-subcontractor ²³	Means the Target Group Enterprise that is the counterparty to the D&C Subcontractor or the Operations Subcontractor under any one or more of the Sub-subcontracts
Target Group	Black People, Women, Disabled Persons and/or Target Group Enterprises ²⁴
Target Group Enterprise	A Black Enterprise; Disabled Person Enterprise or Women Enterprise

²² The reference in the PPP Agreement to Subcontractor is with regard to 1st tier subcontractors, namely the D&C Subcontractor and Operations Subcontractor. The reference herein is to 2nd tier subcontractors used in the context of the DBSA funding.

²³ The reference in the PPP Agreement to Subcontractor is with regard to 1st tier Subcontractors, namely the D&C Subcontractor and Operations Subcontractor. The reference herein is to 2nd tier subcontractors used in the context of the DBSA funding.

²⁴ Definition differs with the RFQ: editorial amendments.

<i>Defined term/Acronym</i>	<i>Meaning</i>
Target Group Equity Members	Either a Target Group individual or a Target Group Enterprise who are Equity Members of the Private Party
Technical Assistance	The funds to be made available, from time to time, by the DBSA to a Target Group Enterprise, or a consortium of Target Group Enterprises, forming part of a Bidder for the purpose of procuring legal and/or financial advisory services in relation to its participation in the Project, as contemplated in paragraph 4.11.2.1
Term Sheets	The term sheets defining the terms of the agreements to be entered into among the Private Party, certain Equity Members; the Department, the DBSA and the Target Group Enterprises or Target Equity Members, in terms of which the DBSA shall provide to them the finance and capacity building assistance, attached as Annexure N (<i>DBSA Funding Offer</i>) of this RFP
Transaction Advisor	SPP Project Solutions (Pty) Ltd, the person appointed by the Department to advise the Department in relation to the Project
Transaction Documents	The Financing Agreements, the Project Documents and the DBSA Agreements
Treasury Regulations	The regulations published pursuant to the PFMA in the Government Gazette 27388 on 15 March 2005
Tshwane	City of Tshwane Metropolitan Municipality
Unitary Payment	The annual charge payable to the Private Party in connection with the performance of its obligations included in the Project Deliverables as calculated in accordance with Schedule 8 (<i>Payment Mechanism</i>) to the PPP Agreement, less those amounts that the Department is entitled to set-off in accordance with the PPP Agreement
Value for Money	Means that the provision of the Project by the Private Party in terms of the PPP Agreement results in a net benefit to the Department defined in terms of cost, price, quality, quantity, risk transfer or a combination thereof

<i>Defined term/Acronym</i>	<i>Meaning</i>
Variant Bid	A RFP Bid not being in compliance with the Essential Minimum Requirements
VIP	Shall mean the Minister, the Deputy Ministers and the Director General
Waterkloof Site	The property known as 201 Matroosberg Road, Waterkloof Heights, Pretoria situate on Portion of the Remaining Extent of Portion 264 of the Farm Garstfontein No 374 JR owned by the Government of the Republic of South Africa under the title deed T517/1969 and measuring 2,4885 hectares as demarcated in Schedule 12: Part 2 (<i>Waterkloof Site Description</i>) and to become Erf 280 Waterkloof Heights, Extension 7, upon the township Waterkloof Heights Extension 7 being proclaimed in terms of section 103 of the Town Planning and Townships Ordinance 15 of 1968
Woman	A female South African citizen and "Women" shall be construed accordingly
Women Enterprise	An Enterprise that is at least 25,1% beneficially owned by Black Women and in which Women have Management Control at least proportionate to their Equity. Such beneficial ownership may be held directly or through other Women Enterprises
Works	The design, construction, fitting out, installation and commissioning works to be undertaken by the Private Party to enable it to meet the Output Specifications and Performance Standards, as may be subsequently amended in accordance with the PPP Agreement

In the RFP, except where the context otherwise requires:

- 1 words importing the singular number shall include the plural and vice versa, and words importing either gender or the neuter shall include both genders and the neuter;
- 2 "enactment" means any statute or statutory provision of South Africa and any other subordinate legislation, regulations or guidelines made under any such statute or statutory provision;

- 3 a reference to any enactment shall be construed as including a reference to any enactment which such subsequent enactment has directly or indirectly replaced (whether with or without modification), and that enactment as re-enacted, replaced or modified from time to time, whether before, on or after the date of this RFP;
- 4 a list of contents, glossary and headings to the parts and paragraphs of this RFP are for ease of reference only and shall not affect the interpretation of this RFP;
- 5 the appendices form part of this RFP, and have the same force and effect as if expressly set out herein; and
- 6 this RFP shall be governed and construed in accordance with the laws of South Africa.

3 Terms and conditions

The Bidder in submitting a RFP Bid is deemed to do so on the basis that it acknowledges and accepts the terms of this RFP.

The procurement of this Project will, in addition to complying with Regulation 16 of the PFMA, be executed within the general ambit of the internal policies, procedures and controls of the Department and for this purpose, copies of the Departmental procurement policy, fraud prevention policy as well as fraud prevention strategy is available in the Data Room for the Bidder to take due cognisance of. It should, however, be noted that this RFP may contain specific requirements over and above the general policies that should be closely adhered to by the Bidder. This RFP will prevail should there be any discrepancy between it and the said Departmental policies and procedures.

3.1 Non-eligible Persons and not-for-profit organisations

- a) Any RFP Bid including the involvement of any person:
 - i) blacklisted by the office of the State Tender Board (or its successor in title),
 - ii) blacklisted by such person's professional body (if applicable), or
 - iii) which has been found guilty in a court of law of fraud or corruption related crimes, such Bid may be rejected by the Department;
- b) Any RFP Bid including the involvement of any national public entity or provincial public entity (each as contemplated under the PFMA) other than a financial institution, may be rejected by the Department.
- c) Any RFP bid including the involvement of any international public entity, national public entity or provincial public entity (each as contemplated under the PFMA) being a financial institution, other than the DBSA in respect of the DBSA Funding Offer, may be rejected by the Department, unless the role of such public entity being a financial institution is limited to the provision of debt that does not duplicate funding available in the private sector and is provided at competitive rates and in a competitive environment, and the provision of such debt is made available to all Bidders.
- d) The participation of not-for-profit entities in the RFP Bid is in the discretion of the Bidder and shall be at its sole invitation and risk.
- e) No national public entity or a provincial public entity may participate as member of or subcontractor to the Bidder or either of the D&C Subcontract or Operations Subcontract, unless:
 - i) approved in advance by the applicable ministry with responsibility over such public entity;

- ii) the involvement of such public entity has been secured in advance by the Department via a third party agreement;
 - iii) the provision of services by such public entity are made available to all Bidders; and
 - iv) the provision of services by such public entity are permitted by law.
- f) Notwithstanding the provisions of this paragraph, the Bidder's attention is drawn to the potential involvement of DBSA in the Project, details of which are set out in paragraph 4.11.

3.2 Submission of RFP Bids

- a) The Bidder is hereby invited to submit an RFP Bid to be considered to be appointed as the Preferred Bidder.
- b) The Bidder appointed as the Preferred Bidder shall be entitled to enter into negotiations with the Department with the objective of entering into the PPP Agreement in respect of the Project. The Reserve Bidder shall only be required to participate in the negotiation process in the event that the PPP Agreement is not or cannot be concluded with the Preferred Bidder or the Preferred Bidder is disqualified or the Preferred Bidder's status is revoked and in which event the Reserve Bidder shall be entitled to enter into negotiations with the Department with the objective of entering into the PPP Agreement in respect of the Project. The Department reserves the right to appoint a Reserve Bidder at any time subsequent to the announcement of the Preferred Bidder.
- c) Subject to paragraph 3.2 d), no person, lender or advisor to a person may be a member of, or in any way participate in or be involved with (either directly or indirectly) more than one Bidder at any stage during the procurement process without the prior written consent of the Department, which may be granted or refused in its sole and absolute discretion.
- d) No person (including both Legal Entities and natural persons) employed or previously employed by either the Department, such other Government department directly involved in the procurement of the Project or any member of the Advisory Team may advise the Bidder, its Equity Members or Committed Subcontractors or be a member of any Bidder without the prior written consent of the Department.
- e) Failure to comply with this paragraph 3.2 c) and d) may result in the disqualification of the Bidder, any person involved with that Bidder or the advisors of either the Bidder or that person, which disqualification shall be in the Department's sole discretion.

3.3 Acknowledgement of law

The Bidder, each of its Equity Members and its Committed Subcontractors are required to submit with the RFP Bid a declaration stating that it is fully acquainted with the laws of South Africa (including without limitation all statutes and regulations (on a national,

provincial and municipal level)) in relation to Public Private Partnerships and the subject matter of the Project, and that it will comply with such laws. The declaration required is set out in Annexures J and K.

3.4 Legal personality of Bidder

- a) While it is acknowledged that for the purposes of submitting a RFP Bid, a Bidder may constitute a consortium²⁵, it is assumed that such consortium shall convert into a SPV, with the various consortium members becoming Equity Members of the SPV if such Bidder is appointed the Preferred Bidder, within 15 Business Days before anticipated date of signature of the PPP Agreement. The Preferred Bidder shall provide the Department with certified copies of the CM1, CM44, CM29, CM22 and share register of such SPV within 10 Business Days before the anticipated date of signature of the PPP Agreement referred to, alternatively with written proof that application has been made to the Registrar of Companies to register the documents, in which event the documents must be delivered to the Department when they are received from the Registrar of Companies.
- b) No change is permitted to the membership or structure of any Bidder, its Equity Members and Committed Subcontractors (including but not limited to a Change in Control in respect of any Entity not being a listed public company) after submission of its RFQ Bid and prior to submission of its RFP Bid without the prior written consent of the Department.
- c) Any Bidder, its Equity Members or Committed Subcontractors wishing to change its membership and/ or structure (including but not limited to a Change in Control in respect of any Entity not being a listed public company) must forthwith notify the Department, in writing, with full details of the reason for the change, the parties involved and the impact on the Bidder.
- d) In the event that the Bidder or its Equity Members or Committed Subcontractors undergoes a change in its membership or structure (including but not limited to a Change in Control) the Department reserves the right to require the Bidder to supply such further information as the Department may, in its sole discretion, request with regard to such change as to enable the Department to fully consider the impact of such change.
- e) In the event that an event contemplated in paragraphs c) and/ or d) above occurs, the Bidder shall be required to comply with the qualification criteria in terms of the RFQ to

²⁵ The Bidder should carefully note the requirements (in terms of this paragraph) of the various members of the consortium, including the Bidder itself, the Equity Members (i.e. shareholders of the Bidder) and the Committed Subcontractors (i.e. the D&C Subcontractor and the Operations Subcontractor who are both shareholders in, and subcontractors to the Bidder).

- the satisfaction of the Department in its sole discretion. Upon being notified by the Department that it is satisfied that the Bidder has complied with the qualification criteria in the RFQ, such Bidder shall constitute a Post-Qualified Bidder.
- f) In the event that an event contemplated in paragraphs c) and/ or d) above occurs, and the Department, in its sole discretion, has given its favourable consideration to the request by the Bidder as to a change to the membership and/or structure (including but not limited to Change in Control) of the Bidder, an Equity Member or Committed Subcontractor the Department will advise the Bidder, in writing, of the outcome of the Department's approval of the request.
 - g) In the event that an event contemplated in paragraphs c) and/ or d) above occurs, and the Department, in its sole discretion, has not given its favourable consideration to the request by the Bidder as to a change to the membership and/or structure (including but not limited to a Change in Control) of the Bidder, the Department will advise the Bidder in writing that its request was not approved and will provide a reasonable amount of time for the Bidder to propose an alternative. Failing this, the Bidder will be disqualified.
 - h) The Department is not obliged to consider any extension of time in relation to any stage of the procurement process on the account of any change in the Bidder (as contemplated above).
 - i) Any decision with regard to a Post-Qualified Bidder shall be announced to all the other Bidders by the Department.
 - j) Should the Bidder, its Equity Members or Committed Subcontractors undergo a change in membership and/or structure (including but not limited to a Change in Control) without the Department's prior written consent, the Department shall be entitled, in its sole discretion, to disqualify the Bidder from participating in any further stage of the procurement process, or to allow the Bidder to continue in the procurement process, subject to such conditions as the Department determines appropriate.
 - k) The provisions of the paragraph 3.4 shall apply *mutatis mutandis* to the Preferred Bidder and the Reserve Bidder.

3.5 Cost of submitting proposals

- a) The Bidder shall bear all of its costs (of whatsoever nature) associated with the preparation of its RFP Bid.
- b) In terms of paragraph 1.5b) of the RFQ, the Bidder is required to submit a bid bond in the amount of R600 000 in the format and content stipulated in Annexure D to the RFQ within 10 Business Days of the release of the RFP. Upon appointment as the Preferred Bidder the Bidder is obliged to submit a replacement bid bond in accordance with

paragraph 3.5c). The bid bonds submitted by the other two Bidders shall be returned within 10 Business Days after the announcement of the Preferred Bidder.

- c) The Preferred Bidder shall submit a bid bond in an amount of R2 000 000 in the format and content stipulated in Annexure L (*Pro-forma bid bond*) to this RFP within 10 Business Days of notification that such Bidder has been appointed as Preferred Bidder. Failure to provide such bid bond in the time allowed may terminate such Bidder's status as Preferred Bidder in the Department's sole and absolute discretion.

3.6 Confidentiality

- a) Bidder confidentiality
 - i) In terms of paragraph 1.6(b) of the RFQ, each Bidder by virtue of their collection of the RFP documentation agrees to keep confidential any information of a confidential nature that may be contained therein (the "Confidential Information"). The Confidential Information may be made available to the Bidder, its Equity Members and Committed Subcontractors and their employees, the Lenders and advisors who are directly involved in the appraisal of such information and who are to be made aware of the obligation of confidentiality, but shall not be (in whole or in part) copied, reproduced, distributed or otherwise made available to any other party without the prior written consent of the Department.
 - ii) The provisions of this paragraph 3.6 shall not apply to any information which is made available as required by any law or any regulatory authority, or which is or becomes public knowledge, other than by way of breach of this paragraph 3.6, or which was in the possession of such party prior to its disclosure or which is received from a third party who lawfully acquired and is under no obligation restricting its disclosure.
 - iii) The Bidder, its Equity Members, Committed Subcontractors, the Lenders and advisors are required to sign confidentiality undertakings in the form set out in Annexure M (*Confidentiality undertaking*). All Confidential Information disclosed to the Bidder, its Equity Members, Committed Subcontractors and their employees, the Lenders and advisors shall remain the property of the Department and shall be returned to the Department on demand.
- b) The Department, such other Government departments directly involved in the procurement of the Project and all members of the Advisory Team undertake to keep confidential all information received from a Bidder which is clearly identified as confidential in such Bidder's RFP Bid and which is not excused from confidentiality as contemplated in paragraph 3.6 a) ii) above and on condition that the Bidder provides the Department with a written undertaking in its RFP Bid to indemnify the Department in respect of any losses suffered by the Department in it refusing to disclose the relevant material or data to any

person seeking access thereto. Failure to include such an undertaking shall be deemed to be a waiver of the Bidder's right to exemption from disclosure and to authorise the Department to provide copies of material/ data forming part of the RFP Bid to third parties on due request therefor.

3.7 Corrupt gifts and payments

- a) Neither the Bidder, its Equity Members, the Committed Subcontractors, the Lenders nor any of their agents or advisors shall directly or indirectly offer or give to any person in the employment of the Department or any other Government official, who is directly involved in the Project, or any of the Advisory Team any gift or consideration of any kind as an inducement or reward for appointing the Bidder as the Preferred Bidder, or for showing or omitting to show favour or disfavour to any Bidder, its Equity Members or the Committed Subcontractors in relation to the Project.
- b) In the event that any of the prohibited practices contemplated under paragraph 3.7a) above is committed, the Department shall be entitled to terminate the Bidder's status and to prohibit such Bidder, its Equity Members, its Committed Subcontractors and their agents and advisors from participating in any further part of the procurement of the Project.

3.8 No contract

- a) This RFP does not constitute an offer to enter into a contractual relationship with any Bidder, but is merely a solicitation of RFP Bids to select the Preferred Bidder, who shall be entitled to negotiate and, if successful, conclude the PPP Agreement with the Department.
- b) The RFP Bid shall constitute an irrevocable binding offer by the Bidder to the Department, which shall remain open for acceptance for a period of 182 days from the Close Date, plus any agreed extension thereto.
- c) In the event that the Department requests the Bidder to extend the period of validity of its RFP Bids, for any reason, the Bidder must issue its response in writing and should the extension be agreed to, the RFP Bid may not be varied but an extension of the bid bond contemplated under paragraph 3.5c) to match any such extension, may be required.
- d) All correspondence from the Bidder shall be addressed to the Project Officer (and copied to the Advisory Team's project manager) and shall be signed by the Lead Member, legally binding the Bidder. All such correspondence must clearly indicate the name of the signatory, his or her position and the name of the Bidder.

3.9 No collusion

- a) The attention of each of the Bidder, its Equity Members, the Committed Subcontractors as well as their advisors and agents is drawn to Section 4(1)(b)(iii) of the Competition Act, 1998, which prohibits collusive tendering.
- b) In submitting a RFP Bid, each of the Bidder, its Equity Members and the Committed Subcontractors certifies that its RFP Bid:
 - i) has been prepared without consultation, communication or agreement for restricting competition with any other Bidder, member of another Bidder, or any other competitor or potential competitor;
 - ii) has not been disclosed by it, nor will it be disclosed by it to any other Bidder, member of another Bidder, or any competitor or potential competitor; and
 - iii) no attempt has been made or will be made by it to induce any other person not to submit a RFP Bid for the purpose of restricting competition.

3.10 Non-compliance

- a) Any material failure on the part of a Bidder to comply with the terms of this RFP, read together with all Briefing Notes, may result in its RFP Bid being treated as non-compliant.
- b) The Department reserves the right to reject any non-compliant RFP Bids without further evaluation.
- c) Any RFP Bid received without all information or data requested in terms of this RFP, or with insufficient information for substantive evaluation thereof, will be marked as incomplete and may in the Department's sole and absolute discretion be rejected.

3.11 Signing requirements

- a) The RFP Bid is to be signed by the Lead Member, duly authorised in terms of the resolutions issued in terms of its RFQ Bid.
- b) The Lead Member shall be the only person authorised to make statements on behalf of and receive instructions for and on behalf of the members of the Bidder represented by the Lead Member.
- c) A consortium agreement entered into by the consortium partners for the purposes of forming a SPV shall be submitted with the RFP Bid, to the extent same either was not submitted in the RFQ Bid or to the extent the terms thereof have changed, which agreement must clearly set out the relationship between the parties thereto and authorise one of the partners to be the Lead Member for that Bidder. Such agreement must form the basis of any further shareholders agreement concluded between the parties.
- d) Included in each RFP Bid shall be a statement by the Lead Member as per Annexure J

4 General information to the Bidder

4.1 Purpose of the Request for Proposals

The purpose of this RFP document is:

- a) to set out the rules of participation in this stage of the procurement process;
- b) to provide further information about the Project to the Bidder so as to allow it to prepare comprehensive and competitive bids for the Project;
- c) to give guidance to the Bidder in the preparation of its RFP Bid;
- d) to allow the Bidder to perform a due diligence investigation on all matters relevant to the Project;
- e) to provide details of the remainder of the procurement process, including timeframes and milestones; and
- f) to enable the Department to select a Preferred Bidder.

This document expands upon the information provided in the RFQ document and Briefing Notes issued pursuant to the RFQ and should be read in conjunction therewith. If there is any conflict in information provided between the RFQ and the RFP, this RFP document (and its annexures) will take precedence.

4.2 Explanation of the Project

4.2.1 Present situation

The Department's overall mandate is to work for the realisation of South Africa's foreign policy objectives. It conducts its mandate by:

- a) monitoring developments in the international environment;
- b) communicating Government's policy positions;
- c) developing and advising Government on policy options, mechanisms and avenues for achieving objectives;
- d) protecting South Africa's sovereignty and territorial integrity;
- e) assisting South Africans abroad; and
- f) assisting partner Departments in navigating complex international dynamics.

In order to give effect to its mandate, the Department comprises of a head office located in Pretoria, a Foreign Service Institute located in the former Bophuthatswana embassy in Hatfield and a diplomatic Guest House, located on the Waterkloof Site and used for the accommodation of foreign dignitaries. In addition hereto, the Department is responsible for the functioning of 107

missions worldwide. The Department's head office component is presently scattered over seven (7) different buildings throughout Pretoria and accommodates the political principals (Minister and two (2) Deputy Ministers), accounting officer, various functional branches, corporate and support services as well as libraries and archives.

The Feasibility Study prepared during 2004 revealed that the Department's current working environment does not meet its fundamental needs in order to achieve its mandate and will not enable the required integration of its facilities and related services under a single point of accountability. Furthermore, it is evident that the operational difficulties posed by the current dispersed and inadequate accommodation cannot be overcome by modifications and changes to the present working environment.

The Department has thus decided to relocate its head office operations into a single working environment with related service provision, which will be Affordable, provide Value for Money and allows appropriate risk transfer to the private sector. Such a new working environment should stand in support of the overall Departmental goals as discussed hereunder.

4.2.2 Overall Departmental goals

The Department intends for the Project to enhance its working environment so as to **enable it to achieve its mandate and service delivery improvement objectives** in order to **facilitate and support its broader transformation** processes. Cognisance has been taken of the need to address the "way in which work is done" within the Department, and to ensure that integration takes place between the Department's working environment, culture and internal processes, so as to ensure optimisation of services. This integration therefore relates not only to the design of the building, but also to the interaction between business processes, people management processes, technology, systems, structure, the environment and the greater culture and philosophy of the Department. In developing this integrated and holistic proposal, the Bidder should pay due attention to the sensitive nature of the Department's mandate which requires a high level of security in all its activities.

The working environment should **support and complement the vision, mission, strategic objectives and core values of the Department** as reflected below.

VISION

Our vision is an African Continent which is prosperous, peaceful, democratic, non-sexist, non-racial and united and which contributes to a world that is just and equitable.

MISSION

We are committed to promoting South Africa's national interests and values, the African Renaissance and the creation of a better world for all.

STRATEGIC OBJECTIVES

- *Through bilateral and multilateral interactions protect and promote South African National interests and values*
- *Conduct and co-ordinate South Africa's international relations and promote its foreign policy objectives*
- *Monitor international developments and advise government on foreign policy and related domestic matters*
- *Protect South Africa's sovereignty and territorial integrity*
- *Contribute to the formulation of international law and enhance respect for the provisions thereof*
- *Promote multilateralism to secure a rules based international system*
- *Maintain a modern, effective and excellence driven department*
- *Provide consular services to South African nationals abroad*
- *Provide a world class and uniquely South African Protocol service*

CORE VALUES

The Department of Foreign Affairs adheres to the following values:

Patriotism, loyalty, dedication, ubuntu, equity, professional integrity and batho pele.

In addition to the above goals, the Project should reflect the character and image of the Department and the country, encourage and support effective and efficient service delivery, cater for the needs of staff and entrench the Department as a people-orientated organisation.

The Bidder is required to, in its RFP Bids, incorporate these overall goals and demonstrate how and to which extent its proposals will serve to support and enhance the said goals. As the ultimate success of the Project will not only be evaluated against tangible items such as the compliance with the PPP Agreement but also against such intangibles as support and enrichment of Departmental goals, this aspect will be evaluated in the criteria per paragraph 10.1.

4.2.3 *Specific Project Goals*

In addition to the overall Departmental goals, a number of specific Project Goals have been identified. The Bidder is required in its RFP Bid to demonstrate how it intends addressing each of the Project Goals. The Project Goals are as follows:

- a) procurement of a consolidated working environment within an optimal project structure;
- b) achievement of a successful long term strategic partnership between the Department and the Private Party;
- c) maximising and entrenching the optimal involvement of Target Groups in the entire life-cycle of the Project, meeting and exceeding the Department's empowerment targets and promoting sustainable local economic development within Tshwane;
- d) successful management of key stakeholder relationships in the preparation and implementation of the Project;
- e) achieving Financial Close within the shortest possible timeframe after Effective Date;
- f) effecting the Relocation of the Department to the Facilities within as short a timeframe as possible and without major incidences affecting the on-going operations of the Department;
- g) successful achievement of the Output Specifications developed for the Project which meet the requirements of Department management, staff and other stakeholders;
- h) satisfaction of the Department's management and staff with the performance of the service providers according to the agreed Performance Standards, (e.g. time taken to respond to a building maintenance request etc.);
- i) creation of sustainable jobs during both the Development Period and the Service Period of the Project, for example, through the utilisation of labour intensive construction methods; and
- j) achievement of appropriate risk transfer to the Private Party and real Value for Money for the Department and for Government.

The Department has provided the Bidder with indications of the evaluation criteria per paragraph 10.1 (*Evaluation Criteria*) below which shall be used by the Department and its Advisory Team in evaluating the RFP Bid. The evaluation criteria cover all the above Project Goals and the Bidder will therefore be evaluated on the stated approaches and plans to achieve these Project Goals in partnership with the Department.

4.2.4 *Project scope*

It is envisaged that the Facilities on the Soutpansberg Site will include:

- a) the provision of office accommodation for its full head office staff complement, together with appropriate staff wellness facilities necessary for the Department to fulfil its mandate;
- b) a training facility to replace the present FSI;
- c) sufficient conference facilities for the many local and international conferences hosted by South Africa (through the Department); and
- d) the construction of a new Guest House.

In addition to the above, the Project will include the upgrading of the existing Guest House on the Waterkloof Site. The Works in relation to the existing Guest House on the Waterkloof Site will be limited to the upgrading and refurbishment thereof.

It is not anticipated that any of the above Facilities are to be rented out to third parties during the Project Term.

This scope of work for the Project will include the Works, the Relocation and the Services, as follows:

Table 1 – Project scope of work

Roles and responsibilities	Serviced office accommodation	FSI	Conferencing facilities	Guest Houses
Approvals, planning and design	Full service	Full service	Full service	Full service
Construction	Full new facility	Full new facility	Full new facility	Full new facility; and upgrading and refurbishment of existing Guest House
Furniture, fittings & equipment	Full provision	Full provision	Full provision	Full provision
Facilities management	Management and administrative systems; hard services; and soft services	Management and administrative systems; hard services; and soft services	Management and administrative systems; hard services; and soft services	Management and administrative systems; hard services only

The organisational structure of the Department is made up of seventeen components namely the Office of the Minister, Offices of the two Deputy Ministers, Office of the Director-General, Chief Directorate Internal Audit, Directorate Intelligence Liaison and 9 branches (Asia and Middle East, Europe, Americas and the Caribbean, Africa, Africa Multilateral, Multilateral, Foreign Service Institute, Corporate Services and State Protocol). The Department has an approved staff structure of 2 005 people of which approximately 1 313 posts are filled at present. It is anticipated that the total approved staff structure will be filled by March 2006. In order to give an indication of the Department's expected growth over the term of the PPP Agreement, the Department has prepared a 25-year staff forecast indicating the staff complement reaching 2 285 posts. Copies of the latest Departmental organogram and the 25-year staff forecast have been provided in the Data Room.

The total space required for the Project is approximately 54 000 m² including the new Guest House facility but excluding the space requirement for the 25 year growth and the existing Guest House). It has been estimated that the space requirement including the 25 year growth (but excluding the existing Guest House on the Waterkloof Site) is approximately 62 000 m². The take up of the additional space requirement, i.e. from 54 000 m² to 62 000 m², is anticipated to be spread evenly over a 10 year period. The Bidder should note that the space requirement figures are indicative and that it is required to determine a more accurate space requirement in terms of Annexure B (*Technical*) of this RFP. The additional space requirement may not be rented out to third parties. The Bidder is to clearly demonstrate how it intends to build the space requirement for the 2 005 staff plus make provision for 5-year growth as part of the initial Works.

The Department's intention was to take occupation of the integrated working environment by the end of **December 2006**, which timeframe is, due to internal and external considerations, no longer realistic. This having been said, the reality remains that the Department is under serious pressure to vacate the present leased and state owned accommodation and to move into its new Facilities. The Bidder is required to, in its RFP Bid, propose an occupation date as close as possible to the original December 2006 deadline. The Department intends evaluating the Bidder on the occupation date proposed and will keep the Bidder to the construction programme indicated to meet its proposed occupation date.

In order to assist the Bidder in proposing an achievable date as close as possible to December 2006, the Department is willing to consider the occupation of the Facilities in Phases. The Bidder's attention is drawn to Table 4 (*RFP Bid Essential Minimum Requirements*) and Table 5 (*RFP Bid Evaluation Criteria*) as well as Annexure B (*Technical*) of this RFP that stipulates

specific requirements should phasing be proposed. The Project scope shall include the Relocation of all staff into the new Facilities as more fully detailed in paragraph 4.5.2 below.

The ICT Scope of Work is aimed at providing an enabling environment for the Department's ICT Chief Directorate to execute their mandate, which is to modernise the Department's ICT and ensure its optimal use. For this reason, the ICT Scope of Work for the Project has been limited to the procurement, financing, installation, maintenance and re-equipping (of both hardware and software), in respect of -

- a) all space required by the Department's ICT unit, including, but not limited to, that space required to house the ICT equipment specified in Schedule 3 (*Information Technology Infrastructure*) to the PPP Agreement;
- b) the private automated exchange ("PABX");
- c) the cabling capable of supporting a converged data network (including all switches);
- d) certain audio-visual equipment specified in Schedule 3 (*Information Technology Infrastructure*) to the PPP Agreement; and
- e) the photocopying equipment.

The Private Party shall be responsible for the ICT Scope of Work whilst the Department's ICT unit will address the remainder of the Department's ICT needs. The Bidder is to note that the Department's ICT staff has specific working environmental requirements in relation to the space required for the ICT equipment. For the purposes of its RFP Bid, the Bidder is expected to make provision for such environmental considerations in accordance with appropriate industry standards with the details being finalised at the detailed design stage.

In fulfilling its stated objective, the Department's ICT Chief Directorate has commenced with a process of procuring a global communications connectivity service provider for its foreign missions (in respect of both voice and data services). It is critical that the PABX potentially procured as part of this Project must be compatible with the Department's chosen global communications connectivity service provider. Therefore, in respect of the PABX included in the ICT Scope of Works, the Department would require that:

- a) the Bidder research the inclusion of the PABX, including the technical solution required to meet the Output Specifications;
- b) the Bidder provides the detail of the costing thereof in response to Annexure B (*Technical*) of this RFP;
- c) the Bidder provides, in its overall integrated Project solution as required in terms of Annexure A (*Overall integrated Project solution and Project management requirements*)

of this RFP, an indication of the timing required such that the Output Specifications are met, including, but not limited to, the timing of procurement and installation; and

- d) the Bidder not enter into exclusivity arrangements with any supplier of equipment.

Dependent upon the outcome of further work currently being performed by the Department's ICT staff, the Department reserves the right to either:

- a) exclude the PABX from the ICT Scope of Works;
- b) participate in the procurement of the PABX by the Private Party; or
- c) allow the Private Party to procure the PABX, in accordance with this RFP.

The Bidder will be notified, as to the outcome of the Department's decision hereon via a Briefing Note. It is anticipated that the Department shall revert to the Bidder within one month of the date of issuance of the RFP.

For security reasons, the help desk staff will not be granted access to the Department's ICT network and the Bidder in designing its proposed help desk system should have regard to this.

It will be crucial for the success of the Project and the Department's operations to ensure appropriate integration between the ICT Scope of Work and those ICT elements addressed by the Department itself. The Department's ICT Plan for 2005/6 – 2007/8 is provided in the Data Room.

4.2.5 Project Site

As indicated in the RFQ, the Department has selected the Government-owned Soutpansberg Site for the Project. The Soutpansberg Site is sufficiently large to accommodate the Department's requirements. It is envisaged that the portion of the Soutpansberg Site on which the Project will be undertaken shall be 10 hectares in extent.

The Waterkloof Site is located within a Government-owned farm portion which is in the process of being proclaimed a township, the Waterkloof Site is 2,4885 hectares in extent.

Details with regard to the site-related investigations (including town planning, environmental and heritage) done as well as interaction with third parties in this regard are contained in paragraph 4.8.

4.2.6 Project management structure

A key success factor identified in the Feasibility Study is the on-going interaction with all key stakeholders ensuring proactive responses and decision-making. A range of different stakeholders with specific roles in the procurement of the Project have been identified, which

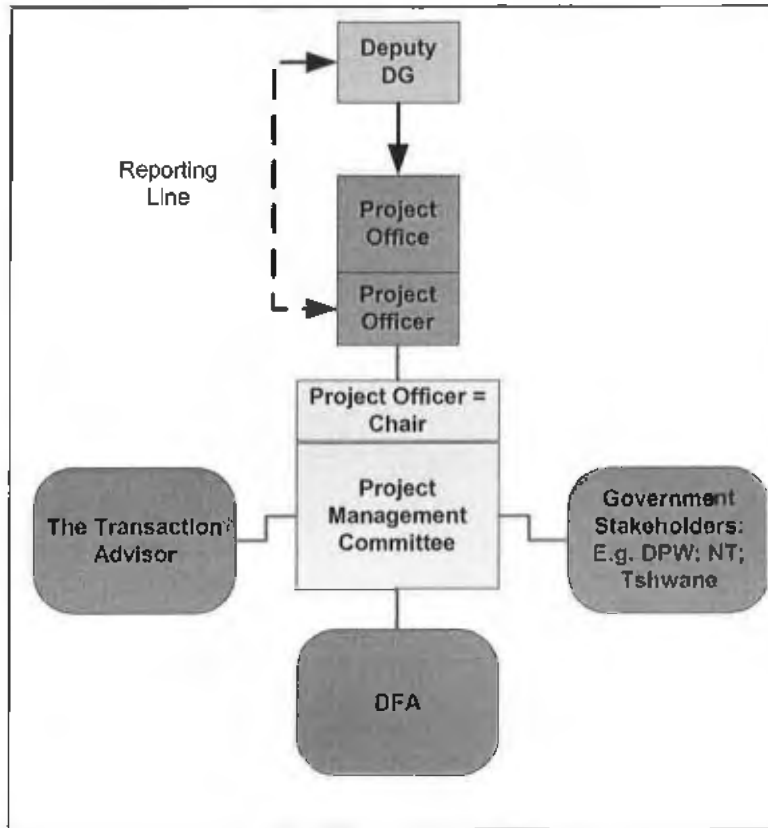
stakeholders include:

- a) Department management and staff;
- b) Government representatives who will manage the transaction from a public sector perspective (the Project Officer and her staff);
- c) Private Party who will manage the transaction from the private sector perspective;
- d) technical or specialist team members and advisors from the public or private sector (support for the Project Officer);
- e) advisors to the public sector, on procurement processes (the Transaction Advisor);
- f) external advisors from other Government departments on specialist areas such as PPP processes, security and ICT (i.e. the PPP Unit, DPW, NIA, South African Police Service, SITA);
- g) national, provincial and local Government institutions as the relevant authorities in respect of certain Project approval processes, i.e. township establishment, environmental, heritage (Tshwane, DEAT and GDACE, and SAHRA);
- h) partner in a financing instrument designed for Target Groups (DBSA);
- i) regulatory authority relating to public finance management (National Treasury);
- j) organised labour;
- k) Interested and Affected Parties in terms of the environmental and heritage processes; and
- l) the Department's clients.

The Minister has tasked the Director General, his Deputy Director General: Corporate Services and the Project Officer with the main responsibility to ensure that the Project is executed. A Transaction Advisor has been appointed by the Department to assist in the execution of the Project. The management of the relationship with stakeholders falls within the mandate of the Project Office.

The diagram below depicts the relationship between the Project Office and the stakeholders.

Figure 1 – Relationship between the Project Office and the stakeholders



The Project Officer acts as the chair of the PMC. The PMC acts as the interface between the Department, the Advisory Team and other Government stakeholders such as the DPW and the PPP Unit.

It is evident from the diagram above that the Project Officer plays an integral interfacing role between the PMC, the Project Office and other stakeholders. In preparing the execution of the Project, the involvement and advice of National Treasury and DPW remains important to ensure the success of the Project.

In addition to providing technical advice, the PPP Unit plays the role as overseer and regulator of the Project procurement to ensure that the Project is procured in accordance with the PFMA on a fair, equitable, transparent, competitive and cost-effective basis and provides the Government with an Affordable solution that provides Value for Money and allows substantial technical, operational and financial risk transfer to the Private Party.

4.3 External framework

The primary enabling legislation for the Project is the PFMA, and specifically Treasury Regulations which regulates the procurement and conclusion of PPP Agreements. Compliance with the PFMA is monitored through the involvement of the PPP Unit, which for purposes of this Project, has been closely involved in all stages.

The procurement of the Project, the RFQ, the RFP and all bids submitted in response thereto, as well as the PPP Agreement and any other contracts arising therefrom, are and will be governed by and construed according to the laws of South Africa.

Section 217 of the Constitution of the Republic of South Africa Act, 1996 provides that procurement must be undertaken in accordance with a system which is fair, equitable, transparent, competitive and cost effective, but permits a policy providing for the protection or advancement of persons or categories of persons disadvantages by unfair discrimination. Under the Broad Based Black Economic Empowerment Act, 2003 a legislative framework has been established to promote Broad Based Black Economic Empowerment on a national level and pursuant thereto the Code of Good Practice for Black Economic Empowerment in Public Private Partnerships has been issued, which the Private Party shall be required to comply with. Whilst the Code of Good Practice for Black Economic Empowerment in Public Private Partnerships provides a guideline scorecard, the Bidder will be evaluated on the Project-specific Balanced Scorecard included in Annexure D (*Target Groups*) of this RFP and Schedule 17 (*Target Group Terms*) to the PPP Agreement.

In evaluating the RFP Bid the Preferential Procurement Policy Framework Act, 2000 is applicable and the 90/10 preference points system will be applied.

4.4 Project framework

The Department wishes to contract with a private party in accordance with the provisions of the PFMA and the Treasury Regulations, and as such a Public Private Partnership is contemplated to be entered into.

Under the PFMA and the Treasury Regulations an institution may, *inter alia*, enter into a Public Private Partnership with a private party, when a private party:

- a) performs an institutional function on behalf of the institution; and/or
- b) assumes substantial financial, technical and operational risks in connection with the

- performance of the institutional function; and
- c) receives a benefit for performing an institutional function by way of consideration payable by the institution.

The Treasury Regulations require that in entering into a PPP arrangement the Department must obtain specific authorisations from the relevant treasury. In brief, these approvals are:

- a) Treasury Approval I (“TAI”): approval of the feasibility study undertaken in respect of the Project, which must demonstrate Affordability, demonstrate how Value for Money is to be achieved through the PPP, the and substantial transfer of financial, technical and operation risk transfer from the Department to the Private Party (Treasury Regulation 16.4.1);
- b) Treasury Approval IIA (“TAIIA”): approval of the procurement documentation for PPP (including, *inter alia*, the RFQ, RFP and PPP Agreement) (Treasury Regulation 16.5.1);
- c) Treasury Approval IIB (“TAIIB”): after the evaluation of the RFP Bids but prior to appointing the Preferred Bidder, approval of the report prepared by the Department indicating how the criteria of Affordability, Value for Money and substantial technical, operational and financial risk transfer were applied in evaluating the RFP Bids and demonstrating how these criteria were satisfied by the proposed Preferred Bidder (Treasury Regulation 16.5.4);
- d) Treasury Approval III (“TAIII”): after conclusion of the procurement process but prior to entering into the PPP Agreement, approval must be obtained on how the negotiated PPP Agreement contains the Affordability, Value for Money and actual risk transfer contemplated under TAI, the management plan that explains the Department’s capacity and mechanisms and procedures to implement, manage, enforce, monitor and report on the PPP and the due diligence on the Department’s and Preferred Bidder’s competence and capacity to enter into the PPP Agreement (Treasury Regulation 16.6.1).

The RFQ, RFP, the draft PPP Agreement thereto, as well as the Output Specifications have been prepared on the basis that these documents and the Project as a whole, meets the criteria mentioned above.

The Bidder, its Lenders and advisors must conduct their own investigations into the authority or

otherwise of the Department to enter into the PPP Agreement with the Private Party and any Bidder who submits a RFP Bid pursuant to the provisions of this RFP warrants that it, its Lenders and advisors have satisfied themselves of the authority of the Department to enter into the PPP Agreement and related arrangements.

As indicated above, the Project has been framed for implementation by way of a Public Private Partnership which will entail the execution of a PPP Agreement between the Department and the Private Party. In its approach to the PPP agreement, the Department will be guided by Standardisation. A copy of the draft PPP Agreement marked-up against Standardisation is available in the Data Room.

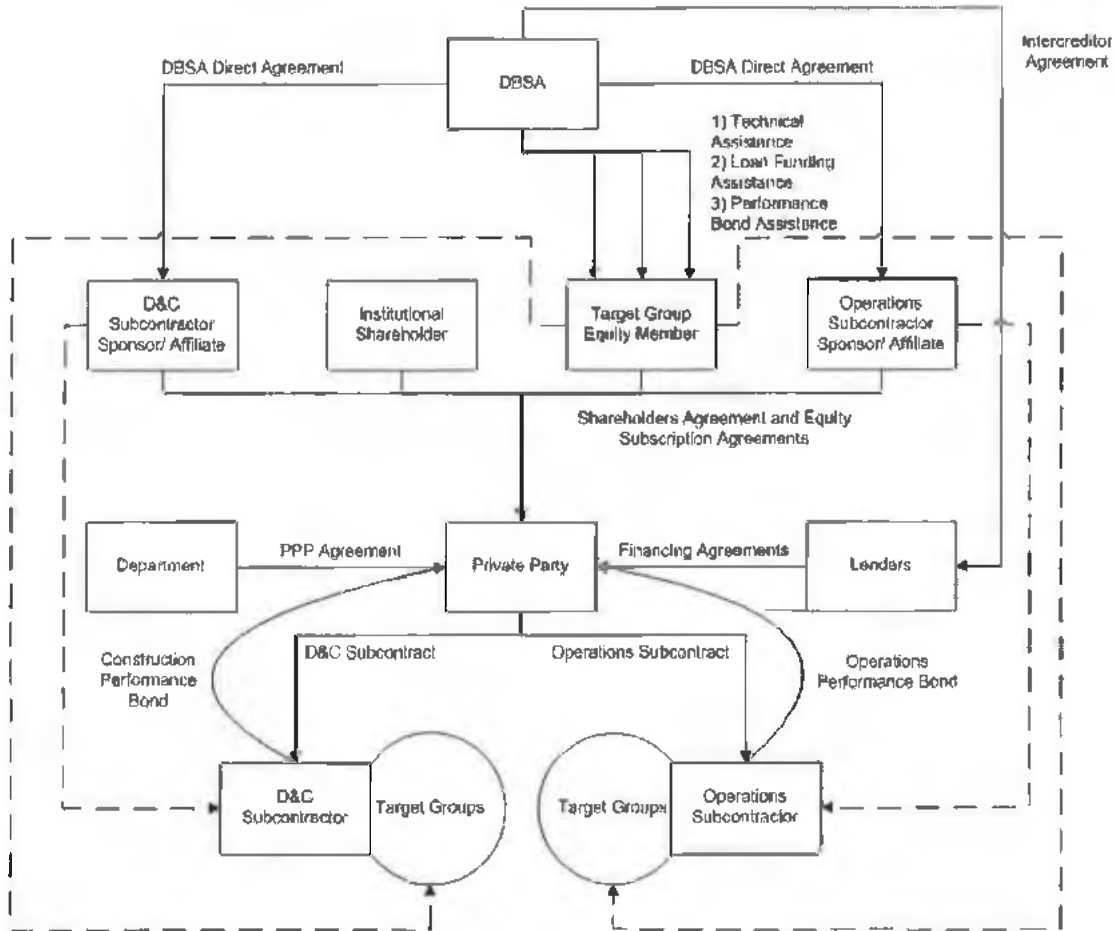
An important feature of the PPP Agreement will be the prescription of a set of Output Specifications that will stipulate the Department's needs not only in respect of the Facilities and Services but will also give effect to the needs of the Department insofar as achieving its mandate, vision, mission, strategic objectives and service delivery improvement objectives are concerned. These objectives are translated into Project Goals which are addressed in relevant Output Specifications.

The PPP Agreement requires the Private Party, at its own cost and risk, to:

- a) design, construct and finance the Facilities for the Department on the Project Site;
- b) maintain and operate the Facilities from date of construction to the date of termination of the PPP Agreement; and
- c) provide certain operational Services relating to both core and certain non-core functions of the Department,

in exchange for a single, indivisible Unitary Payment of R121,8 million per annum (inclusive of VAT) for full availability of the Facilities and performance of the Services. The proposed payment mechanism for the provision of accommodation and related services by the Private Party will be a Unitary Payment in the form of an annual Unitary Payment, paid monthly in arrears, subject to the Private Party achieving specified Performance Standards. The Unitary Payment will be subject to reduction according to the penalty regimes described in Schedule 8 (*Payment Mechanism*) to the PPP Agreement. The penalties will relate to key performance requirements in key performance areas by the Private Party and will be applied where the performance of the Private Party falls short of the stipulated Performance Standards provided for in the PPP Agreement.

Figure 2 – Proposed Project structure



The proposed structure is a generic limited-recourse project finance structure, allowing the DBSA to participate with their Target Group funding instrument as another layer of limited-recourse project finance on top of the Project's layer of project finance. The risk allocation between the Public Sector and the Private Party has been documented in the risk matrix contained in the Data Room.

The Private Party will enter into a 25-year PPP Agreement with the Department. The Private Party must be structured as a SPV created specifically for the purpose of entering into the PPP Agreement with the Department.

Attention is drawn to the DBSA Funding Offer and its potential impact on the Project funding structure, details of the DBSA Funding Offer as provided in paragraph 4.11.2 below.

Attention is further drawn to the need for the Bidder, in its RFP Bid, to provide heads of terms for both the D&C Subcontract and the Operations Subcontract, which clearly demonstrate the pass through of construction and operating risks. Further details are provided in Annexure C (*Legal requirements*).

4.4.1 *Accounting treatment for the Project*

The Bidder is required to provide a proposal in its RFP Bid as to its intended accounting treatment in terms of generally accepted accounting practice (GAAP). Such proposal must highlight the accounting treatment throughout the Project Term, *inter alia*, at inception, at Service Commencement and at expiry and/ or termination. The Bidder should be aware that the Government is currently in a process of converting from a cash basis of accounting to an accrual basis of accounting and as such the Department may make requests to the Private Party (in terms of clause 59 (*Information and audit access*) of the PPP Agreement) to assist it in meeting its reporting requirements to the Office of the Accountant-General and the Office of the Auditor-General. The accounting treatment may be scrutinised by the Office of the Accountant-General.

4.5 **Project assets**

The Bidder is required to provide details as to how it intends to manage the Facilities Assets in compliance with all relevant legislation and, in particular, Treasury Regulation 10 and the Asset Management Framework issued by National Treasury. Such proposal must provide a clear link to the systems and software to be provided by the Operations Subcontractor in terms of Annexure B (*Technical*) of this RFP. The asset register must be made available to the Department, in a format specified by the Department, on a six-monthly basis, or more regularly if so required by the Department.

The Bidder is required to provide a description of its intended asset disposal process, such process description must comply with all relevant legislation and, in particular, Treasury Regulation 16A.

4.5.1 *Immovable assets*

In respect of the land, the both the Soutpansberg Site and the Waterkloof Site are Government-owned.

The Soutpansberg Site has been offered by the Minister of Public Works to the Minister for the purposes of this Project. Although the Private Party will have the right of use of the Project Site for the period of the PPP Agreement, no formal encumbrance of the land will be created.

The Waterkloof Site is situate on a portion of the remaining extent of portion 264 of the farm Garstfontein 374, registration division JR on which a township is in the process of being established, as detailed further in paragraph 4.8.3.2 below, and will be renamed portion 414 on the establishment of said township. A deed of sale in respect of portion 414 was entered into

between DPW and Encha Properties Waterkloof 1 (Pty) Limited on 29 June 2005. In a letter dated 3 August 2005 (and is included in the Data Room), DPW has confirmed that the Waterkloof Site remains the property of the Government.

In respect of the Facilities, the Private Party is expected to finance, design, construct, maintain and operate the Facilities, with the exception of the operating of the Guest Houses, the Bidder is to note that the Private Party shall not be responsible for the operating of the Guest Houses in accordance with paragraph 6.2 below. In terms of clause 26 (*Maintenance survey*) of the PPP Agreement, it is expected that, at the end of the PPP Agreement, the Facilities will be handed back to Government in a condition that will permit occupation for a period, on average, of at least 3 (three) years beyond the term of the PPP Agreement (including any extensions granted, as contemplated in terms of Schedule 17 (*Target Group Terms*) to the PPP Agreement) without major upgrade and/ or refurbishment being required.

4.5.2 *Movable assets*

No movable assets belonging to the Department will be transferred to the Private Party for the purposes of the Project. The Private Party is required to provide all Facilities Assets required to ensure adherence to the Output Specifications. No encumbrance of the Facilities Assets may be created. For the sake of clarity Departmental movable assets are not to be confused with the Facilities Assets.

In terms of clause 26 (*Maintenance survey*) of the PPP Agreement, it is expected that, at the end of the PPP Agreement, the Facilities Assets will be handed back to Government in a condition that will permit utilisation for a period, on average, of 3 (three) years.

In terms of Schedule 16 (*Relocation principles*) to the PPP Agreement, I Bidder should note that the Private Party shall remain responsible for the Relocation of the movable assets to be listed by the Department. The movable assets to be relocated by the Private Party shall include:

- a) all documents, files, archive files, library documents and personal effects of the Departmental Employees; and
- b) minor equipment, owned by the Department (being movable assets which, in general, shall be less than R5 000 in value) excluding that which is to be provided as part of the Facilities Assets.

A complete list of all the Department's movable assets to be relocated shall be added to the Data Room, when completed.

The Bidder should note the requirement to integrate the Bidder's proposed Relocation plan for the Project with the Department's ICT implementation plan as part of the transitional arrangements for the Facilities.

In respect of the Waterkloof Site, the Bidder is to have regard for the need to move the Department's movable assets located on this site to a storage facility located within Gauteng. It is to be noted that some of these movable assets will be required to be moved back into the Facilities upon commencement of the Service Period.

The Bidder is expected to include the cost of moving all movable assets in its RFP Bid, any assets not on the aforementioned list of the Department's movable assets and subsequently added to the list post-Close Date will be treated as a pass-through cost by the Private Party. The Private Party shall not be responsible for the move of any ICT equipment.

4.6 Phasing of the Relocation and Service Commencement

In terms of clause 20 (*Completion certificates*) of the PPP Agreement the sequencing of actions leading up to Service Commencement in respect of each Phase of the Project are as follows:

- a) the Completion Certificate (as defined in the PPP Agreement) issued by Independent Certifier;
- b) Relocation by the Private Party;
- c) the Availability Certificate, either the Partial Availability Certificate or the Final Availability Certificate (as defined in the PPP Agreement) issued by the Private Party to confirm that the Facilities are ready, the Services are ready and the Relocation of the Department Employees has been completed;
- d) Service Commencement (either Partial Service Commencement or Final Service Commencement) shall commence following the issue of the either of the Availability Certificates (either the Partial Availability Certificate or the Final Availability Certificate).

Should the Bidder choose to propose in its RFP Bid to complete the Facilities in Phases, the Bidder shall clearly indicate in Schedule 13 (*Phases*) of the PPP Agreement the dates which the various Phases will be made available to the Department, such Phases are to be included in the Bidder's proposed Project programme and Relocation plan per Annexure B (*Technical*) of this RFP. The Department shall take occupation of the first Phase of the Facilities once the essential minimum services are available for the Department Employees to perform their functions, and accordingly the Bidder is to specify the minimum Services to be provided in respect of the first Phase in terms of Schedule 28 (*Minimum Services*) of the PPP Agreement.

4.7 Procurement framework and timelines

The procurement process is designed to be fair, equitable, transparent, competitive and cost-effective and will be executed in terms of the prevailing procurement policies and practices of the Department which are available in the Data Room.

The stages in the procurement phase of the PPP process are outlined in Module 6 of National Treasury's PPP Manual, issued as National Treasury PPP Practice Note number 3 of 2004, in terms of Section 76(4)(g) of the PFMA, which stages will be followed closely in this Project.

Treasury Approval I was received on 19 November 2004, Treasury Approval IIA in respect of the RFQ was received on 22 November 2004 and Treasury Approval IIA in respect of the RFP was received on 11 August 2005, copies of which are provided in the Data Room.

RFP Bids will be evaluated by the Evaluation Committee appointed by the Department and a Preferred Bidder will be selected. The announcement of the Preferred Bidder will follow the obtaining of TAIIB from National Treasury.

The Department may, after evaluation of the RFP responses, in its sole and absolute discretion, initiate a best and final offer process. All costs incurred by the Bidder in relation to the preparation and submission of a best and final offer shall be for the account of the Bidder.

After obtaining TAIIB, detailed contract negotiations will commence with a view of concluding the PPP Agreement with the Preferred Bidder. As part of its RFP Bid, the Bidder is required to state the composition of its negotiation team and to indicate who its lead negotiator will be for negotiations with the Department should it be appointed as the Preferred Bidder. The Department will also require the negotiation team of the Preferred Bidder to include the Lenders from the commencement of negotiations. The successful conclusion of the negotiation stage will lead to a submission for the granting of TAIIB.

At the Effective Date the Preferred Bidder will be expected to have prepared all Project Documents (with the exception of those agreements where the responsibility remains with the Department, as well as having reached agreement with the DBSA regarding the documentation pertaining to the DBSA offer should the Preferred Bidder elect to proceed with the DBSA Funding Offer in respect of the Target Groups) and have prepared the Financing Agreements in agreed form.

In terms of clause 21 (*Relocation and Service Commencement*) of the PPP Agreement the first Business Day after the issuance of the Availability Certificate (whether the Partial Availability Certificate or Final Availability Certificate (as defined in the PPP Agreement)) Service Commencement in respect of a Phase of the Facilities may commence, thereafter the Department shall be liable for the payment of the pro-rata Unitary Payment. The PPP Agreement has been drafted on the assumption that the Facilities shall be handed over in Phases, however this phased approach is not mandatory. Preference would be given in the RFP evaluation to the Bidder which offers the Department the date of the earliest Relocation of the entire Department.

The anticipated dates for the completion of the Project are as follows:

Table 2 – Anticipated Project timetable

Milestone	Anticipated Date
Issue of RFP document	15 August 2005
Briefing session organised site visit	(approx.) 30 August 2005
Data Room visit	(approx.) 26 August 2005
Deadline for RFP response	7 November 2005
Evaluation and selection of the Preferred Bidder	1 February 2006
Signing of PPP Agreement	30 August 2006
Financial Close	18 September 2006
Construction commencement	19 September 2006

4.8 Third party requirements

In respect of the Project, the Department either has procured or is in the process of procuring various other approvals and consents from third parties, the process and time frames of which are further described hereunder.

4.8.1 DPW inner city regeneration initiative

A joint initiative between DPW and Tshwane was launched in 2004 with a view to improving the accommodation for the headquarters of national Government departments within the context of

revitalising the inner city of Tshwane. For this purpose, seven flexible nodes have been identified within Tshwane and departments have been grouped within these nodes. The Department, with its selected Soutpansberg Site, has been placed within the “Presidency/ Union Buildings node” with a clear statement that the procurement of the project will be via a PPP. The Project is thus integrated within the above initiative and both the DPW and Tshwane are aware of the Project, its status and the fact that it is being managed by the Department.

4.8.2 Development Agreement

The development agreement in respect of the Soutpansberg Site (“the Development Agreement”) was concluded on 6 June 2005. The purpose of the Development Agreement is to record and agree that:

- a) the current zoning of the Soutpansberg Site entitles the Department to utilise the Soutpansberg Site for the Project, should it wish to do so;
- b) the Department will apply to Tshwane to establish a township on the Soutpansberg Site in accordance with the provisions of the Development Agreement; and
- c) the Department (or the Private Party) is granted the right to proceed with the Project on the Soutpansberg Site while the township establishment approval from Tshwane is pending.

It is important to note that if the Department chooses not to pursue the establishment of a township on the Soutpansberg Site or the township establishment fails, the Department has all the existing rights (addressed in paragraph 4.8.3 below) to pursue the establishment of the Project on the Soutpansberg Site. A copy of the Development Agreement is available in the Data Room.

4.8.3 Town planning

4.8.3.1 Soutpansberg Site

The Soutpansberg Property is classified as farm land and is zoned for Government use.

Due to the fact that the Soutpansberg Site retains the farm land classification of the Soutpansberg Property and in order to observe the principles of co-operative governance between the different spheres of Government, the Department decided that a township establishment process will be submitted in respect of the Soutpansberg Site. Through this township application process the Department intends to cause the Soutpansberg Property to be subdivided to create the Soutpansberg Site.

The Development Agreement (per paragraph 4.8.2 above) confirms that the current Government zoning of the Soutpansberg Property entitles the Department to proceed with the Project on the

Soutpansberg Site as there will be no change in land use and the Department would merely be exercising its existing rights in respect of the Soutpansberg Site and accordingly the Department is of the view that the Project can proceed on the Soutpansberg Site without a township being proclaimed.

In terms of the Ordinance an application for the establishment of a township was submitted on 4 July 2005, a copy of this application and all comments related thereto are available in the Data Room. Responsibility for the completion of the township application process will be split between the Department and the Private Party. The Department shall assume responsibility for the submission of the township application and the collation of all comments from Tshwane and third party service providers (step 2 per Table 3 (*Anticipated milestones and time frames to complete the township establishment process in respect of the Soutpansberg Site*) below). Thereafter, the process must be completed by the Private Party at its own cost and risk.

The anticipated time frames to complete the township establishment process are indicated in Table 3 (*Anticipated milestones and time frames to complete the township establishment process in respect of the Soutpansberg Site*) below.

Table 3 - Anticipated milestones and time frames to complete the township establishment process in respect of the Soutpansberg Site

Milestones (stage)	Description of process	Anticipated time frame
1. Completion and submission of the township application to Tshwane	The township application has been completed and submitted to Tshwane	July 2005
2. Receipt and finalization of all comments received from Tshwane and third party service providers	Meetings will be held with various technical officials (with various departments within Tshwane and external providers of services to the Soutpansberg Site) during the 60 day period from the submission date to obtain and answer comments. It is important to note that the EIA and the obtaining of a Record of Decision will impact upon this process and the two processes should be	September 2005

Milestones (stage)	Description of process	Anticipated time frame
	aligned.	
3. Tshwane council approval and negotiations of conditions of establishment	This process will take 4-8 weeks after comments are received. The approval is a Tshwane internal process. All areas of significance will have been identified and solutions negotiated during the comment period	
4. Issuing of the conditions of establishment by Tshwane	The Department will receive the conditions of establishment and make this available to the Preferred Bidder. The Preferred Bidder will be expected to comply herewith.	
5. Completion of the township proclamation notice as published by Tshwane	Approximately a 3-week period for notice to appear in the Government Gazette. The correct installation of site services, dealt with as part of a site development plan prepared by the Private Party, will need to be submitted to Tshwane.	

The information to complete the township establishment process in respect of the Soutpansberg Site shall be either prepared or procured by the Private Party within time frames agreed between the Department and the Private Party. The Bidder shall satisfy itself of the approach per Table 3 (*Anticipated milestones and time frames to complete the township establishment process in respect of the Soutpansberg Site*) above, the completeness thereof and the indicative timing. The cost of the preparation or procurement of the information (post-conditions of establishment) and all other costs in relation to the township establishment process shall be entirely borne by the Private Party.

4.8.3.2 Waterkloof Site

The Waterkloof Site is zoned "Special Residential". The Waterkloof Site, being the site of the existing Guest House, is situate on land in respect of which a township establishment process was commenced by the DPW, responsibility for the finalisation of township establishment has been assumed by Encha Properties Waterkloof 1 (Pty) Limited. This township establishment process

has not been completed and is unrelated to the requirements of the Project, accordingly it is not anticipated that the Private Party shall be required to undertake any additional obligations in respect thereof. An approved general plan is available in the Data Room. The Department will continue to interact with both the DPW and Encha Properties Waterkloof 1 (Pty) Limited and shall keep the Bidder informed by way of Briefing Notes.

4.8.4 *Engineering services*

4.8.4.1 *Soutpansberg Site*

In respect of the Soutpansberg Site, responsibility for the finalisation of the services agreements with Tshwane, payment of bulk service contributions and associated upgrading of infrastructure shall be entirely borne by the Private Party. The Bidder is expected to make clear in its RFP Bid its estimate of the cost of the bulk services contributions and upgrading of the infrastructure. The Department has commenced negotiation with Tshwane in order to define the scope of the upgrading requirements. The Department has investigated the existing infrastructure within the vicinity of the Soutpansberg Site and envisage the upgrading of engineering services to include:

Roads and stormwater:

- a) upgrading of the intersections of Soutpansberg Road and Tom Jenkins Drive;
- b) upgrading of Soutpansberg Road and Wren Lane;
- c) upgrading of Soutpansberg Road and Gordon Road; and
- d) provision of complete new intersection with Soutpansberg Road and the Soutpansberg Site.

Final negotiations on the extent of the upgrading required can only be concluded by the Private Party based on layout and other information that is required to be provided by the Private Party.

Water, sanitation and waste disposal: Discussion with Tshwane officials indicated these services were available from Tshwane.

Telecommunications: Discussion with Telkom indicated services were available.

Electrical: The development is likely to be fed from the Rietondale satellite substation. An appropriate connection and route for the development will need to be designed and a new feeder cable installed. Upgrading of the electrical infrastructure in the sub-station and other areas is required and an appropriate investigation and design is to be conducted by the Bidder and an amount for this should be included in the Bidder's cost estimates.

This scope of engineering services is not complete and the Private Party shall complete appropriate designs by competent professionals and thereafter reach agreement with Tshwane to arrange for connections, bulk services etc. The final scope of services shall be formalised in a main services agreement to be entered into between the Private Party and Tshwane. The Bidder is advised to include an amount of R20 million, for the purposes of its RFP Bid, which will in its Financial Model include, *inter alia*, the abovementioned services both upgrading and bulk service contributions. By including this amount this does not remove the responsibility from the Bidder to perform its due diligence in respect of the engineering services. The Department reserves its right to participate in the finalisation of the services agreements with Tshwane. The cost of the preparation or procurement of the finalisation of the services agreements shall be entirely borne by the Private Party.

4.8.4.2 Waterkloof Site

A study of the engineering services available in the area of the Waterkloof Site was commissioned by the Department during July 2005. The key findings from this study revealed:

Roads and stormwater:

The roads adjacent to the Waterkloof Site and the stormwater system should be adequate for the intended use.

Water, sanitation and waste disposal: Although there was some discrepancies between the sewer reticulation indicated on the DPW site plans (included in the Data Room) and the site investigation, the services required are available from Tshwane.

Telecommunications: The Waterkloof Site has existing telephone connections, additional facilities may be applied for through Telkom.

Electrical: Whereas the existing electrical supply to the Waterkloof Site appears to be adequate a number of issues have been identified which should be addressed by the Bidder in its RFP Bid:

- a) A Tshwane sub-station is located within the boundaries of the Waterkloof Site. Appropriate arrangements (and payment therefor) are to be made between the Private Party and Tshwane for the relocation of this infrastructure. Due to Tshwane's lack of funds it is envisaged that the cost of the relocation shall be borne by the Project.
- b) The electrical reticulation within the buildings on the Waterkloof Site appear to be old and in need of maintenance, the Bidder is required to give this matter appropriate consideration in its RFP Bid.

The engineering services reports in respect of both the Soutpansberg Site and the Waterkloof Site are available in the Data Room.

4.8.5 Vesting of the Project Site

The DPW, in its capacity as custodian of Government-owned land, has the responsibility to ensure that Government land vests in the sphere of Government which controls the land. The Department has requested the DPW to commence with the process of vesting of the Soutpansberg Site and the Department will retain responsibility for the completion of vesting of each Project Site at its cost.

4.8.6 Environmental aspects

In conducting the Feasibility Study for the Project, the Department has had regard to the Feasibility Study Guidelines in respect of the Project due diligence. With reference to site enablement issues, the Feasibility Study Guidelines are clear that the Department needs to identify, compile and verify all approvals related to a particular site. The Feasibility Study Guidelines state that the purpose thereof is to uncover any problems which may impact on the Project's Affordability and Value for Money, or cause regulatory delays at implementation.

4.8.6.1 Soutpansberg Site

The Department is very conscious of the crucial importance of adequately addressing the required environmental processes in respect of the establishment of the Project on the Soutpansberg Site. To this end, various discussions have been held between representatives of the Department, the National Treasury, the DEAT and the GDACE during the Feasibility Study process in order for all parties to understand and agree upon the environmental processes to be followed.

During the aforementioned discussions, the Department became aware that the PPP process does not align sufficiently with the EIA regulations (dated April 1998) to enable a record of decision ("RoD") to be issued in terms of ECA, mainly due to the absence of a site plan (a requirement in terms of 3.2.3.1 of the said regulations), which document can be submitted only once prepared by the Private Party. Consequently, it was agreed with the DEAT that the best way forward would be for the Department to apply for exemption (in terms of section 28A of ECA) from undertaking an EIA. This exemption application was lodged on 6 September 2004 with the DEAT, being the responsible environmental authority for the Project. To support the application for exemption, the Department submitted an environmental report as well as an environmental background memorandum, entitled "*Motivation for Exemption from undertaking an EIA on the Soutpansberg Site*", dated 3 September 2004. The GDACE, who was registered as an Interested and Affected Party, was kept fully informed of the environmental processes.

On 21 September 2004 the DEAT requested that a full public participation process be followed, which resulted in:

- a) advertisements being placed in the Pretoria News and the Beeld on 21 September 2004 and 23 September 2004, respectively, and on-site;
- b) adjacent landowners being informed of the exemption application for the Project;
- c) Interested and Affected Parties being given a 30-day period to lodge any comments on Project. This 30-day period ended on 22 October 2004;
- d) a public meeting having taken place on 15 November 2004 in order to discuss the Project, the comments and objections raised during the registration period, as well as the initial mitigation measures proposed by the Department;
- e) a comments and response report, which included proposed mitigation measures to the concerns raised by Interested and Affected Parties; submitted to the DEAT on 14 December 2004.

The following further studies that may impact on the environment were also commissioned by the Department and are available in the Data Room:

- a) Traffic Impact Study for the Feasibility Study for the Proposed DFA Head Office Campus on the Soutpansberg Site, 12 August 2004;
- b) Soutpansberg West Site (2A), Geotechnical Investigation, April 2004;
- c) Information Memorandum with Heritage Inventory and Preliminary Assessment of the Heritage Features of the Soutpansberg Site, 14 September 2004;
- d) Heritage Impact Assessment of the Site proposed for the new Head Offices of the Department of Foreign Affairs (Soutpansberg Road, Pretoria), 23 November 2004; and
- e) Bulk Services Report in respect of the Soutpansberg Site, April 2004.

Further discussions took place between the Department, the DEAT and the National Treasury during May 2005. During these discussions the DEAT confirmed that it was not in a position to grant exemption and authorise a construction activity on the Soutpansberg Site, at this stage. The reason for this is that, in the absence of a site plan and more detail on the Facilities itself, the concerns raised by Interested and Affected Parties in the public participation process regarding biodiversity impacts, traffic issues, and the impact of the development on the residential area, could not be adequately addressed.

For the above reasons the DEAT advised the Department in their letter dated 27 May 2005 that the exemption would not be granted. In the DEAT view, the environmental process should continue. The Department, the DEAT and the National Treasury will within the next few weeks,

as a matter of priority, continue discussions in order to provide more clarity to the Bidder as to the exact process to be followed to conclude the environmental process, the responsibilities of the Department and the Preferred Bidder in this process, as well as possible risk sharing mechanisms. It is the intention of the Department to disseminate this information to the Bidder via Briefing Notes. The Bidder should take note of the above view of the DEAT in preparing its RFP Bid.

In the interim, it is of critical importance that the Bidder should, in the preparation of its RFP Bid, pay attention to the following:

- a) The Bidder needs to be sensitive to the fact that a government building of substantial size is to be constructed in a residential area. The residents are eager to ensure that the Project does not, amongst others, disturb the sense of place, destroy the rustic atmosphere of the area, pose a security risk and increase crime in the area. Issues of light pollution, noise, increase in traffic and accessing major roads as well as property values are of primary concern to the immediate residents. Specific attention needs to be paid to the location of the buildings on the Soutpansberg Site as well as the long-term environmental management on the Soutpansberg Site. The location of the buildings should be such as to have minimal impact on the nearby residences.

In addition to the above, the Bidder must consider the comments submitted by the GDACE in their letters addressed to the DEAT, as well as the detail comments from the public as contained in the comments and response report and the minutes of the public meeting. All of the documentation are available in the Data Room and should be taken into account when preparing its RFP Bid.

- b) The Bidder is alerted to the consultation which took place during June 2005 between the Department and representatives from Tshwane. Tshwane is in the process of compiling a policy document, the Tshwane Open Space Framework ("TOSF"), which addresses several issues to be considered during future development planning within the Tshwane area. Some elements of this policy document will have a direct bearing on the Soutpansberg Site, as well as the adjacent roads and the Meintjieskop ridge, and the Project will therefore have to be planned and executed taking these policies into consideration. It is the responsibility of the Bidder to ascertain from Tshwane the status of approval of the TOSF and to obtain this document to inform its RFP Bid. It is furthermore the Bidder's responsibility to ensure that it takes cognisance of all other relevant policies from Tshwane, including the Tshwane Urban Forestry Policy document, which will have an impact on the establishment of the Project on the Soutpansberg Site
- c) The Bidder is furthermore encouraged to take the concerns of the community into consideration in preparing its local economic development initiatives, which local

economic development initiatives must be agreed upon and finalised in conjunction with the Department prior to implementation.

The Department is of the view that the establishment of the Project on the Soutpansberg Site is an opportunity to create a mutually beneficial relationship between the Department and the residents of Rietondale and Queenswood and to showcase an environmentally sensitive and responsible development of which the area and Tshwane may be proud of.

4.8.6.2 Waterkloof Site

During the due diligence in respect of the Waterkloof Site it has been determined that an EIA will not be required.

All the abovementioned environmental documentation are available in the Data Room.

4.8.7 Heritage aspects

4.8.7.1 Soutpansberg Site

In respect of the Soutpansberg Site, in terms of Section 38(1) of the Heritage Act, the Department is required to notify the SAHRA, as the responsible authority, of a possible intention to develop a site falling within the categories defined under Section 38(1)(c) and (d) of the Heritage Act. This notification was submitted to SAHRA, as the relevant heritage authority for the Project, on 15 September 2004. In response to this notification SAHRA requested that further limited studies be undertaken. These studies were completed and are contained in the heritage report dated 26 November 2004 which was submitted to SAHRA. In a letter dated 24 January 2005, SAHRA has confirmed that it has no objection to the Department commencing with the Project on the Soutpansberg Site. The Bidder's attention is drawn to SAHRA's requirement for an archaeologist to be appointed by the Private Party to undertake a "watching brief" during the Development Period where earthmoving is involved. The archaeologist will be required to monitor the said construction activities for any evidence of subterranean heritage resources. The Private Party will be required to submit a report to SAHRA subsequent to the completion of earthmoving construction activities stating that no heritage resources were identified during the said construction activities. The scope of work in respect of the archaeologist's "watching brief" is to be agreed between the Department, the Private Party and SAHRA and is to be included as Schedule 29 (*Watching brief scope of works*) to the PPP Agreement.

4.8.7.2 Waterkloof Site

In respect of the Waterkloof Site, the Department commissioned a preliminary assessment of the

risk of impact to existing heritage resources on the site.

The heritage expert identified that there are architectural features within the buildings which the Bidder should have regard to when proposing its designs for this facility. In addition, the heritage expert is of the opinion that the envisaged development on the site will not impact on (any) heritage resources on the site.

In terms of s38(1) of the Heritage Act, the Department will submit a letter notifying SAHRA of the intended development on the Waterkloof Site. The heritage expert is, currently, of the view that a heritage impact assessment in terms of s38(3) of the Heritage Act will not be required by SAHRA. In the event that such heritage impact assessment is required by SAHRA, the Department, in consultation with the heritage expert, will complete this work, the Bidder will be informed by way of a Briefing Note of further progress in this regard.

The aforementioned heritage notification, reports and correspondence are available in the Data Room.

4.9 Bidder's due diligence

The Bidder must perform an appropriate due diligence on all technical, legal, financial, environmental, town planning, heritage and other matters relevant to the Project to enable the Bidder to submit its RFP Bid that is based on verified and accurate information.

4.9.1 Bidders' Briefing Session

The Department intends to host the first Bidders' Briefing Session within two weeks after the release of the RFP. At this session the Department shall make suitable arrangements for the organised site visits as contemplated in paragraph 4.9.2 below and provide further detail on the Bidders' access to the Data Room as contemplated in paragraph 4.9.3 below.

4.9.2 Organised site visit

Organised visits to each Project Site and the FSI are to be arranged, on a one-on-one basis and by appointment only, for the Bidder from **30 August 2005** to **13 September 2005**, with the Project Officer, Project Manager and relevant lead consultants from the Advisory Team. The Department intends to make the visit to the Project Site an interactive question-and-answer session. All questions asked and answers given will be captured and distributed amongst all Bidders.

The Bidder will be given an opportunity to engage with the Department in a structured interactive

question and answer session on the Project after the organised site visit. The Bidder should take note of the fact that, subject to paragraph 9.6 below, the Department will keep a record of these sessions and that the Department will endeavour to make available to all Bidders, in writing, all questions and answers raised at all these sessions, within 7 days of each individual session.

In respect of the Waterkloof Site, the Bidder should be aware that the existing Guest House is in daily use by the Department and thus should have regard to this in making any further requests for site visits to the Waterkloof Site.

4.9.3 Data Room

The Department will make a Data Room available to the Bidder to enable it to obtain additional information for the purpose of completing its RFP Bid. The various documents relating to, *inter alia*, the Project approvals, the Project Site due diligence and Department policies are available in the Data Room. A list of the documents available in the Data Room is attached as Annexure G. The information provided in the Data Room is not an exhaustive list of all documentation and information produced in connection with the Project, nor is it the only information which may be applicable to the Bidder. The Department reserves the right to add information to the Data Room as such information becomes available as well as to remove or revise documents. The Bidder will be notified, in writing, of all changes made to the Data Room. The Bidder must satisfy itself that it has obtained access to all material and information which may affect its RFP Bid.

Appointments to obtain access to the Data Room must be made at least 24 hours in advance with the Project Officer and only one Bidder will be allowed at a time. A Data Room access request form is included as Annexure H (*Data Room access form*).

4.9.3.1 Location

The Data Room shall be located at:

Room 101, Groot Constantia Building
Tulbagh Park
Corner of Church and Duncan Streets
Hatfield
PRETORIA

and will be accessible from **26 August 2005** to **31 October 2005** between 9:00am and 3:00pm on any Business Day. Visits to the Data Room may be made by appointment only.

4.9.3.2 Information provided in the Data Room

The information to be included in the Data Room is listed in Annexure H (*Data Room access*

form). The Bidder is to note that some of the information contained in the Data Room may be marked "confidential", which means that such documents may not be photocopied and may only be viewed by members of the Bidder that have successfully passed a security screening process.

A substantial portion of the information in the Data Room will also be made available to the Bidder on a compact disc. Subsequent information added to the Data Room may be provided to the Bidder on compact disc, at the Department's discretion.

4.9.3.3 No representation or warranties

While all reasonable care has been taken in preparing the information in the Data Room, the information contained therein does not purport to be comprehensive or to have been verified by the Department, any of its officers, employees, servants, agents, advisors or any other person. Accordingly, neither the Department nor any of its advisors accept any liability or responsibility for the adequacy, accuracy or completeness of any of the information or opinions stated in the reports therein. The Bidder, at its own cost, is to perform its own investigations to satisfy itself as to the accuracy of the information provided.

4.10 Quality management system

Whereas it is not a requirement for either the D&C Subcontractor or the Operations Subcontractor, at the time of the RFP Bid submission, to be ISO-accredited, the Bidder is required to include in its RFP Bid its **proposed** Quality Management System ("QMS"). This QMS should include the setting up of the system, the compliance reporting and the application thereof to the D&C Subcontractor, the Operations Subcontractor and their envisaged Sub-subcontractors during both the Development Period and Service Period of the PPP. Such QMS proposal must be prepared in accordance with the latest versions of ISO9000 and ISO14000.

The **actual** QMS for the Development Period, is to be submitted by the Private Party to the Department prior to the commencement of construction. In addition thereto, the Private Party shall provide quarterly compliance reports, during the Development Period, demonstrating its compliance with the said QMS.

For the Service Period, the Private Party shall be required to achieve ISO-accreditation within 4 years of the Final Service Commencement Date (as defined in the PPP Agreement). The Private Party will be required to maintain its ISO-accreditation for the balance of the Project Term. Prior to the commencement of operations the Private Party shall be required to submit an implementation plan of how it intends to achieve ISO-accreditation within the 4 year period. Until the Private Party achieves ISO-accreditation, it shall provide quarterly compliance reports

demonstrating its compliance with the said ISO-standards.

4.11 Involvement of Target Groups in the Project

The Department has stated as a specific Project Goal, the maximisation of participation of Target Groups in the Project. The objective is to ensure that these Target Groups will be *optimally, actively and equally* involved, in the entire life-cycle opportunities of the Project, at all levels i.e. ownership, management and service delivery. The Department deliberately wants to encourage the optimal participation of Women, Disabled Persons and Target Group Enterprises. In order to achieve this objective the Department has developed a Project-specific scorecard (the Balanced Scorecard is included as Annexure D (*Target Group requirements*) of this RFP) which has been based upon the PPP Unit's Practice Note 3 of 2004; the Department has amended the PPP Unit's guideline balanced scorecard to increase the participation levels of Black People and to extend the involvement of Women and the Disabled Persons.

The Bidder should carefully study the Balanced Scorecard and ensure that it has a full and complete understanding of the defined terms used, the minimum thresholds set, the method of calculating the participation of the Target Groups in a consortium and the method of scoring to be used in the RFP evaluation. Failure by the Bidder to meet the overall threshold of 50% of the scoring allocated to the Target Group evaluation criteria (per Table 5 (*RFP Bid Evaluation Criteria*) below) will result in its RFP Bid not being considered further. In this regard the Bidder is referred to paragraph 1.3 of Annexure D (*Target Groups requirements*).

From experience there are severe constraints inhibiting the participation of Target Groups in projects of this nature, such as the availability of affordable financing and the capacity of the Target Groups to participate in PPP projects. Few of the Target Groups are able to raise the necessary finance to fund their equity obligations into such projects from their own resources, thus most Target Groups have to borrow to fund their equity obligations. The rates at which they borrow tend to be prohibitively high, resulting in reduced returns. This has the further effect of reducing the Target Groups' interest and enthusiasm to take up equity in PPPs. Even if participation in transactions is secured, another serious constraint is the lack of sufficient experience by, and capacity of, these Target Groups in participating in the complex structuring of a PPP transaction, including active and effective negotiating of their position in the consortium and therefore undermining the objective of securing equal and active participation.

These constraints have led the Department to explore ways of accessing more affordable funding and assistance with capacity building of the Target Groups to enable them to play a meaningful

and sustainable role in the Project. The Department approached the DBSA – as one of Government’s development finance institutions mandated for infrastructure development – with a view to structuring a special financing and capacity building instrument that could be used to help ease access to finance and facilitate empowerment and capacity building. The rationale for this engagement is that the DBSA has a clear developmental mandate to play a catalytic role in stimulating the private sector to provide meaningful support to the Target Groups in PPP projects. The development of this funding and capacity building product is meant not only to facilitate access to Affordable funding and capacity building of Target Groups to participate in this Project, but to enable participation by the Target Groups in all future PPP transactions. It is hoped that the product will lead towards higher levels of participation and more appropriate assessment and pricing of risks, whether perceived or real, in relation to Target Group participation in PPP transactions.

The Department is confident that the availability of the DBSA Funding Offer to Target Groups will enable the active and sustainable participation of such Target Groups in projects of this scale and nature as well as serve to deepen and mature, *inter alia*, the property, construction, financing and investment markets. The Bidder is to note that the utilisation of the DBSA Funding Offer is by no means mandatory, but should serve as an indication of the level and extent of assistance that is presently available in the market. Should the Bidder wish to make use of the DBSA Funding Offer, the Bidder is encouraged to make contact directly with the DBSA-nominated contact people, as indicated in the Term Sheets attached as Annexure N (*DBSA Funding Offer*).

The detail of the DBSA Funding Offer is described below in order to allow the Bidder and its Lenders to evaluate the DBSA Funding Offer and to make an informed decision as to whether to make use thereof. In the event that the Bidder decides not to make use of the DBSA Funding Offer it is required, in its RFP Bid, to demonstrate, in detail, how the three objectives outlined below have been met by its alternative offer.

4.11.1 Objectives of the Target Group funding

Funding offered to Target Groups should be an integrated package of three elements, technical assistance, loan funding assistance and performance bond assistance. Such package must meet three objectives, as follows:

Technical Assistance

The intention of the Technical Assistance as part of the Target Group funding is to build the capacity of the Target Groups, through the provision of independent expert legal and financial professional services, during the bidding and negotiation stages of the Project so to ensure that

these Target Groups will be *optimally, actively and equally* involved, in the entire life-cycle opportunities of the Project, at all levels i.e. ownership, management and service delivery.

Loan Funding Assistance

The objective of the Target Group funding is to make available affordable financing to the Target Group Equity Members to take up Equity in the Private Party.

Performance Bond Assistance

On the assumption that the Private Party requires performance bonds from the Committed Subcontractors, or similarly, performance bonds are required from the Sub-subcontractors. The intention of the performance bond assistance offered to the Target Groups Equity Member is to allow such Target Group Equity Member to contribute the required performance bonds as a member of the Committed Subcontractor or as a Sub-subcontractors, as the case may be, on an equal basis with other members of the Committed Subcontractors or Sub-subcontractors, as the case may be.

4.11.2 DBSA Funding Offer

The DBSA Funding Offer includes:

- a) the provision of Technical Assistance grant funding to all the Target Groups forming part of the Bidder (as a collective), to enable them to acquire legal and financial advice during the bidding phase. In addition hereto, the Target Groups forming part of the Preferred Bidder shall be entitled to receive Technical Assistance funding for the period of contract negotiations up to Financial Close, to the extent that the Technical Assistance funding granted to such Target Groups has not been exhausted;
- b) the provision of Loan Funding Assistance as described hereunder in paragraph 4.11.2.2; and
- c) the provision of Performance Bond Assistance as described hereunder in paragraph 4.11.2.3.

The DBSA Funding Offer is offered as an integrated package to the Bidder, i.e. the **Bidder will not be permitted to select individual elements of the DBSA Funding Offer**. To clarify, in the event that Target Group Equity Members are approved to receive the DBSA Funding Offer (hereafter referred to as a “DBSA Supported Target Group Equity Member”) they will be entitled to the Technical Assistance and the Loan Funding Assistance, both of which are mandatory. The Target Group Equity Members who will be approved to receive the DBSA Funding Offer will also be entitled to request the DBSA to provide Performance Bond Assistance, although this will not be mandatory.

In the event that the Target Groups utilise the DBSA Funding Offer the DBSA must be granted an option to provide a portion of the Project debt finance, at its discretion.

As the DBSA Funding Offer is conditional on, *inter alia*, the acceptance of the elements of the financing and assistance package offered by DBSA, it is strongly recommended that the Bidder finalise the participation of Target Groups within the Bidder as a matter of priority.

The Term Sheets relating to the various elements of the DBSA Funding Offer are attached to this RFP as Annexure N (*DBSA Funding Offer*). A detailed description of the various elements of the financing and capacity building product, together with an outline of the key terms and conditions of the aforesaid Term Sheets are set out hereunder.

4.11.2.1 Technical Assistance

Objective

The intention of the Technical Assistance being offered by the DBSA to the Target Groups is to build the capacity of the Target Groups, during the bidding and negotiation stages of the Project. The DBSA offers to make available capacity building assistance to the Target Groups that form part of the Bidder, through Technical Assistance grant funding to enable the Target Groups to procure expert legal and financial professional services.

The DBSA are intent upon the Target Groups (who attach to the Bidder) forming a single consortium in applying for the Technical Assistance and such consortium shall be referred to as the “Eligible Entity” (as defined in the Technical Assistance Term Sheet attached as Annexure N (*DBSA Funding Offer*)).

Target Group Equity Members who attach to the Bidder and are approved to take up the DBSA Funding Offer, with a view to access the Technical Assistance, may either:

- (i) organise themselves into a consortium and enter into the Technical Assistance agreement :or
- (ii) sign the Technical Assistance agreement on a joint and several basis.

The salient terms of the Technical Assistance agreement are provided in Annexure N (*DBSA Funding Offer*).

Salient terms

The DBSA will only make Technical Assistance funding available to an Eligible Entity forming part of the Bidder, pursuant to an agreement entered into with such an Eligible Entity.

The DBSA will not enter into Technical Assistance agreements with any Target Group Equity Member acting independently of the Eligible Entity attached to the Bidder. In addition, the DBSA will not offer Loan Funding Assistance to a Target Group Equity Member that were not part of the Eligible Entity with which it executed a Technical Assistance agreement, unless that Target Group Equity Member in question is able to show to the Department's reasonable satisfaction that it did not require the Technical Assistance provided by the DBSA for its effective and meaningful participation in the procurement and negotiation process leading up to the execution of the PPP Agreement and Financial Close.

It is the DBSA's intention that even though the Eligible Entity will act jointly for the purposes of negotiating and executing the Technical Assistance agreement, the DBSA shall negotiate with the individual DBSA Supported Target Group Equity Members separately with regards the various category loan agreements and security undertakings and the terms of the performance bonds required by such DBSA Supported Target Group Equity Members.

The Technical Assistance funding to be made available to the Eligible Entity will be split as follows: (i) approximately 30 % of the funding will be available during the period (the "first period") up to the announcement of the Preferred Bidder; and (ii) approximately 70 % of the funding will be available during the period (the "second period") starting with the negotiations between the Preferred Bidder and the Department up until the execution of the PPP Agreement and Financial Close.

The amount granted under this Technical Assistance will depend on the circumstances of each request, as the case may be, as detailed in the DBSA Supported Target Group Equity Members' application to the DBSA for such Technical Assistance.

The Technical Assistance provided to the Eligible Entity shall be deemed to be a DSBA grant if:

- (i) the Bidder to which the DBSA Supported Target Group Equity Members attach is not awarded Preferred Bidder status; or
- (ii) the Bidder to which the DBSA Supported Target Group Equity Members attach is awarded Preferred Bidder status, but through circumstances beyond the Preferred Bidder's control, that Preferred Bidder does not enter into the PPP Agreement with the Department.

The Eligible Entity forming part of the Preferred Bidder may choose to repay the DBSA (with breakage costs, in certain instances) at any time prior to Financial Close, on the following

conditions:

- (i) the Eligible Entity shall provide to the Department satisfactory proof of it having obtained assistance similar to the Technical Assistance through their own means or through the assistance of other Equity Members or such other person(s) on terms and conditions more favourable than that being offered to them by the DBSA; and
- (ii) the payment of breakage costs (in accordance with the Technical Assistance Term Sheet in Annexure N (*DBSA Funding Offer*)).

4.11.2.2 Loan Funding Assistance

Objective

The objective of the DBSA Funding Offer is to make available affordable financing to the Target Group Equity Members to take up Equity in the Private Party.

The DBSA requires each Target Group Equity Member to apply separately for the Loan Funding Assistance for the loan category which accords with its involvement in the Project. The Target Group Equity Member is expected to form an entity ring-fenced for the purposes of participation in the Project and the protection of the cash flow to such DBSA Supported Target Group Equity Member.

Salient terms

The Loan Funding Assistance granted by the DBSA shall be made available as three distinct loans. The loan category will depend upon the DBSA Supported Target Group Equity Member's participation in the operations of the D&C Subcontractor or the Operations Subcontractor, or as Sub-subcontractors or the Target Group Equity Member's participation as a passive investor in the Private Party, as follows:

Loan Category "A"

- a) This loan type will be made available to a DBSA Supported Target Group Equity Member which participates both as an Equity Member in the Private Party and as a member of the D&C Subcontractor. Alternatively, the Target Group Equity Member may be an Equity Member in the Private Party and be a subcontractor to the D&C Subcontractor, therefore the Sub-subcontractor to the Private Party. The proceeds of this loan are to be used exclusively for either the subscription by the DBSA Supported Target Group Equity Member for taking up of Equity in the Private Party; or upon the event of the Performance Bond Assistance, being granted to a DBSA Supported Target Group Equity Member, being called as a result of non-performance after having received all the

support required in terms of the DBSA direct agreement (as defined in the Loan Funding Assistance Term Sheet).

- b) The primary source of cash flow to service this Loan Category "A" will be income received for services rendered under the D&C Subcontract or the Sub-subcontract.
- c) Further details are provided in the Term Sheets attached as Annexure N (*DBSA Funding Offer*).

Loan Category "B"

- a) This loan type will be made available to a DBSA Supported Target Group Equity Member which participates both as an Equity Member in the Private Party and as a member of the Operations Subcontractor. Alternatively, the DBSA Supported Target Group Equity Member may be an Equity Member in the Private Party and in a subcontractor to the Operations Subcontractor, therefore the Sub-subcontractor to the Private Party. The proceeds of this loan are to be used exclusively for either the taking up of Equity by the DBSA Supported Target Group Equity Member; or upon the event of the Performance Bond Assistance, being granted to a DBSA Supported Target Group Equity Member, being called as a result of non-performance after having received all the support required in terms of the DBSA direct agreement (as defined in the Loan Funding Assistance Term Sheet).
- b) The primary source of cash flow to service this Loan Category "B" will be income received for services rendered under the Operations Subcontract or the Sub-subcontract.
- c) Further details are provided in the Term Sheets attached as Annexure N (*DBSA Funding Offer*).

Loan Category "C"

- a) This loan will be granted to a DBSA Supported Target Group Equity Member which is either:
 - i) This loan type will be made available to a DBSA Supported Target Group Equity Member which does not participate either as a member of a Committed Subcontractor or as a Sub-subcontractor, but who may be involved in the day-to-day management of the Private Party. The proceeds of this loan are to be used exclusively for the taking up of Equity by the DBSA Supported Target Group Equity Member, or
 - ii) The DBSA Supported Target Group Equity Member who is a recipient of a Loan Category "A" loan who elects to "roll over" the unpaid portion of the Loan Category "A" loan into a Loan Category "C" loan.

- b) This Loan Category "C" will be serviced from the income received from dividends, interest on shareholders loans, management fees or any other income received by such a DBSA Supported Target Group Equity Member, as agreed with the DBSA.
- c) Further details are provided in the Term Sheets attached as Annexure N (*DBSA Funding Offer*).

In determining the amount of either Loan Category "A" or Loan Category "B" made available to the DBSA Supported Target Group Equity Members, the DBSA will have regard to, *inter alia*, the DBSA Supported Target Group Equity Member's proportionate interest in the cash flows from each of the D&C Subcontract, the Operations Subcontract or Sub-subcontracts, respectively. In determining the amount of Loan Category "C" made available to DBSA Supported Target Group Equity Members, the DBSA will have regard to, *inter alia*, the dividend, interest on shareholder's loan, management fee receipts from the Private Party and any other income pledged in support of the Loan Funding Assistance.

4.11.2.3 Performance Bond Assistance

Objective

The Private Party has the responsibility of providing the performance bonds which are anticipated to be required by the Lenders. The Private Party is most likely to require that the D&C Subcontractor, the Operations Subcontractor and perhaps the Sub-subcontractors provide performance bonds in favour of the Private Party for those aspects of the Project to be undertaken by such Committed Subcontractors or Sub-subcontractors. **It is anticipated that the Target Group Enterprises that are members of the Committed Subcontractors and perhaps the Sub-subcontractors will be required to provide performance bonds proportionate to their direct interest in the D&C Subcontract, Operations Subcontract or Sub-subcontract, as the case may be.**

The intention of the Performance Bond Assistance being offered by the DBSA to the DBSA Supported Target Group Equity Members, who are approved to receive the DBSA Funding Offer, is to allow such DBSA Supported Target Group Equity Member to contribute the required performance bonds as a member of the Committed Subcontractor (or possibly as Sub-subcontractors, in this case, dependent upon the requirements of the Committed Subcontractors), on an equal basis with other members of the Committed Subcontractors (or Sub-subcontractors, again being dependent upon the requirements of the Committed Subcontractors).

The DBSA is willing to provide either in full or in part the various performance bonds required by a DBSA Supported Target Group Equity Member, subject to the following terms and

conditions.

Salient terms

In the event that a DBSA Supported Target Group Equity Member wishes to apply for Performance Bond Assistance the following key terms should be noted:

(i) Construction performance bonds

The DBSA will provide to a DBSA Supported Target Group Equity Member, who is a recipient of a Loan Category "A" loan facility, construction performance bonds, provided that such construction performance bonds shall endure for a period of no longer than 24 months after the effective date of the PPP Agreement. Any drawdown against the construction performance bonds shall be conditional upon the DBSA being satisfied that the obligations of certain of the empowered Equity Members under a direct agreement with the DBSA have been fulfilled, through the issuance of compliance certificates by an independent party.

(ii) Operations performance bonds

The DBSA will provide to a DBSA Supported Target Group Equity Member, who is a recipient of a Loan Category "B" loan facility operations performance bonds, provided that such operations performance bonds shall endure for a period of no longer than 24 months from the Scheduled Service Commencement Date in respect of the last Phase i.e. approximately three and a half years into the term of the PPP Agreement. Any drawdown against the operations performance bonds shall be conditional upon the DBSA being reasonably satisfied that the obligations of certain of the empowered Equity Members under a direct agreement with the DBSA have been fulfilled, through the issuance of compliance certificates by an independent party.

The DBSA expects a DBSA Supported Target Group Equity Member to secure performance bonds (in particular, the operations performance bond) to replace the DBSA issued performance bonds prior to the expiry of the DBSA performance bonds.

The maximum amount of the bonds will in each case not exceed 10% of the contract value of the relevant DBSA Supported Target Group Equity Member's pro-rata portion of Subcontract or Sub-Subcontract, as the case may be.

4.11.2.4 DBSA participation in debt facilities for the Project

By virtue of making available the DBSA Funding Offer to a DBSA Supported Target Group Equity Member and the acceptance thereof by the DBSA Supported Target Group Equity Member, the DBSA shall have the right to participate in the financing of the Project. Depending

upon the final structure of the debt required by the Private Party for the implementation of the Project, the DBSA will consider participation in both the senior and mezzanine debt. The DBSA's participation will not be more than 15% of the Private Party's total debt (excluding shareholder loans).

The DBSA's participation in the debt financing will be on the same terms and conditions negotiated by the Lenders, and shall rank *pari passu* with the other Lenders in respect of each of the senior debt and mezzanine debt. The DBSA reserves the right not to participate in the debt if the terms negotiated, in relation to either the senior debt or mezzanine debt, are unacceptable to the DBSA. The DBSA will not participate in the negotiations to structure the senior and/ or mezzanine debt (except to the extent that it might have observer status for capacity building and reporting). The DBSA has set out, under the Term Sheets (attached as Annexure N (*DBSA Funding Offer*)), the fundamental rights that it requires to be established in its favour under the inter-creditor agreement, to be entered into between the Lenders, the DBSA as the provider of senior and/ or mezzanine debt, and the lenders' agent.

4.11.3 DBSA Requirements

The DBSA Funding Offer is conditional on acceptance of, *inter alia*, all the relevant elements of the DBSA Funding Offer outlined in paragraph 4.11.2 above. A Target Group Equity Member is not prohibited from applying for more than one loan category. By way of example, if a DBSA Supported Target Group Equity Member is a Shareholder in the Private Party and has an interest in both in the D&C Subcontractor and Operations Subcontractor, the DBSA could grant to that DBSA Supported Target Group Equity Member both a Loan Category "A" loan and Loan Category "B" loan.

With regard to the security required in terms of the various loan categories, the DBSA's obligation to provide such loans shall be conditional on, *inter alia*, the following:

- a) Final approval of the PPP Agreement and other Project Documents (to the satisfaction of the DBSA) and execution (and in certain instances, enforceability) of the agreements comprising the Project Documents.
- b) Final approval of the Financing Agreements. DBSA will have the same rights and obligations as any other lender of similar status in the Inter-Creditor Agreement, except that the DBSA shall have priority in respect of all security granted by the DBSA Supported Target Group Equity Members as collateral for their obligations under the DBSA Agreements.
- c) Satisfactory appraisal of the Target Group Equity Member's business plans and financial models to ensure that these meet the DBSA requirements

- regarding viability, and approval of the investment by DBSA's management and/or the DBSA board.
- d) The Target Group Equity Members will be expected to fund a reasonable portion of the equity obligations, from their own sources.
 - e) Payment by the Target Group Equity Members of the DBSA's fees (such fees being market-related)
 - f) Satisfaction of further conditions that are detailed in the loan agreements between DBSA and the Target Group Equity Members referred to in paragraph 4.11.2.
 - g) Satisfactory conclusion of the direct agreements as per the Term Sheets per Annexure N (*DBSA Funding Offer*) The satisfactory conclusion of the agreements pertaining to the security granted to the DBSA (including any registration thereof, to the extent necessary).

4.12 Importance of human resources

In view of the long term partnership that is being created via the envisaged PPP Agreement between the Department and the Private Party, the Department is therefore interested in the human resource component of the Project. This does not only relate to the Bidder's ability and capacity to provide the necessary human resources to meet the Output Specifications, but also relates to the extent and nature of human resource practices that the Bidder is to employ during the Project Term. The Department is looking for a partner that values its human resources, complies with and exceeds legislative requirements and is an employer of choice for its staff. It is important to the Department that the Private Party's way of operating is aligned with the Department's culture and its focus on sound people practices, thereby ensuring that service provision is optimised.

The Bidder is to note that the weighting that has been allocated to the human resources element per the Evaluation Criteria (per Table 6 (*Weighting of the scores per evaluation area*) of paragraph 10.1 below) is by no means an indication of the relative importance of this element to the Department. In its RFP Bid, the Bidder is required to ensure that adequate input is provided with respect to the human resources issues, as requested, in relation to both the Works and the Services.

The Bidder should note that the information required by the Department pertaining to human resources is covered in a number of annexures to the RFP. This is due to the specific and targeted nature of the information required by the Department linked to the different focus points of each of these annexures. The following annexures are relevant:

- a) Annexure A (*Overall integrated Project solution and Project management requirements*);
- b) Annexure B (*Technical requirements*);
- c) Annexure D (*Target Group requirements*); and
- d) Annexure F (*Human resources requirements*).

The Bidder is required to include its response to the human resources information as part of the relevant annexures listed above, but also to interpret the total human resources information required in a holistic manner so as to present its human resources solution in an integrated way in its RFP Bid. This will enable the Department to assess the Bidder's response to both the specific requirements per each annexure and the Bidder's understanding of the overall human resources requirement to ensure the success of the Project. The Department is aware of the fact that this may lead to a duplication of human resources information in various sections of the RFP Bid and expect the Bidder to use appropriate cross-referencing where the same information is presented in more than one section of its RFP Bid.

The Department understands that detail human resources policies, strategies and procedures will only be developed at the Preferred Bidder stage, but requires a sufficient level of detail at the RFP Bid stage in order to assess the Bidder's general approach to the strategic and operational management of human resources.

5 Essential Minimum Requirements

5.1 Compliant Bids

As a minimum requirement, the Bidder must submit a Compliant Bid which meets the Essential Minimum Requirements listed below, which reflects all amendments to the PPP Agreement and its schedules in the manner set out in Annexure C (*Legal requirements*), and which responds to all information requested under this RFP.

The Department will accept only one Compliant Bid which must be clearly marked as the Compliant Bid. The Bidder may submit Variant Bid/(s) in accordance with paragraph 5.2 below.

Any Compliant Bid may be accepted on its terms, and the Bidder in submitting its RFP Bid does so in the knowledge that the Compliant Bid so accepted may be concluded with the Department without further negotiation.

In submitting its Compliant Bid the Bidder is to assume that there will be no early works, which

is consistent with the drafting of the PPP Agreement and the Bidder is not required to mark-up the PPP Agreement to reflect early works.

Table 4 (*RFP Bid Essential Minimum Requirements*) covers the minimum requirements in each of the evaluation areas which must be completed in order for a RFP Bid to be deemed to be a Compliant Bid. Where the Bidder has not met the requirements as specified in Table 4 (*RFP Bid Essential Minimum Requirements*) the Department reserves the right to reject the Bidder's RFP Bid. The Department will require the Bidder to prepare its RFP Bid under the leadership of an experienced and committed bid manager(s), who should be clearly identified and the relevant contact details provided.

Table 4 – RFP Bid Essential Minimum Requirements

Evaluation area	Minimum requirement
<p>Overall integrated Project solution and Project management</p>	<ul style="list-style-type: none"> ○ The Bidder shall submit a proposal demonstrating its understanding of the Department's Project Goals and Bidder's interpretation of what would constitute a total integrated solution to the Department within the framework of a long term strategic partnership between the Private Party and the Department; ○ The Bidder shall submit a proposal pertaining to the structuring, capacity and capability of its project management function for the Project, which will clearly indicate how the Bidder will address/ has addressed this critical element during bid preparation, negotiation, Effective Date, Financial Close, construction, operation, maintenance and expiry of the Project; ○ The Bidder shall state the composition of its negotiation team and shall indicate who its lead negotiator will be for negotiations with the Department, should it be the Preferred Bidder. The Department will also require the negotiation team of the Preferred Bidder to include the Lenders from the commencement of negotiations; and ○ The Bidder shall provide a Project Plan to meet time frames, stating all assumptions and detailing, <i>inter alia</i> the following:

Evaluation area	Minimum requirement
	<ul style="list-style-type: none"> ▪ negotiation timetable (including Effective Date and Financial Close as milestones); ▪ site handover and establishment milestone; ▪ design and approval milestones; and ▪ construction milestones (indicating either a handover in Phases (per accommodation block) or a complete site handover). <p>The Bidder shall be required to assume that there will be no best and final offer process. This assumption shall not detract from the Department's right in terms of paragraph 3.12 above.</p>
<p>Technical: general</p>	<p>The Bidder shall submit a technical proposal that shows the integration of the design, sustainability and operational aspects of the Project as detailed in the technical sections of these Essential Minimum Requirements below.</p> <p>The Bidder's should note, in terms of paragraph 5.1 above, that the PPP Agreement has been drafted assuming there will be no early works. For the purposes of its Compliant Bid, the Bidder is required to assume that there will be no early works. In the event that a Bidder wishes to contemplate any early works, such a proposal should be dealt with in terms of the requirements for a Variant Bid.</p>
<p>Technical: architectural and sustainability</p>	<p>The minimum requirement is a response to the four main areas of the Project: office accommodation, FSI, Guest Houses and conferencing demonstrating:</p> <ul style="list-style-type: none"> ○ how design objectives will be reached; ○ integration of environmental and sustainability design objectives and principles into the architectural design concept; ○ integration of working environment, security and space

Evaluation area	Minimum requirement
	<ul style="list-style-type: none"> concepts; ○ essential components making up the life-cycle of the service; and ○ sufficient attention is given to employee wellness, gender and Disabled Persons issues (both staff and visitors).
Technical: construction	<p>The Bidder must provide, as a minimum response:</p> <ul style="list-style-type: none"> ○ a detailed construction programme (including any completion in Phases, if relevant) ○ a procedure to ensure that the building design is approved by the Operations Subcontractor. ○ the Bidder's statement of compliance with the Output Specifications, or alternately reasons for non-compliance
Technical: transitional arrangements	<ul style="list-style-type: none"> ○ the Bidder must provide a framework of its anticipated Relocation plan ○ the Bidder is required to provide details of its commissioning programme
Technical: operations	<p>The Bidder must provide, as a minimum response, the following:</p> <ul style="list-style-type: none"> ○ operational response to each of the Services per the Output Specifications; and ○ demonstrate that the Operations Subcontractor is in agreement with the design of the Facilities and the Facilities Assets specified in the RFP Bid.
Financial	<ul style="list-style-type: none"> ○ the Bidder is to clearly demonstrate Project Affordability in accordance with the Affordability level indicated in paragraph 4.4 above; ○ the Bidder shall provide a clear demonstration of its approach to transfer of risk, in accordance with its marked-up PPP Agreement;

Evaluation area	Minimum requirement
	<ul style="list-style-type: none"> ○ the Bidder is to provide full details of the amount, term, rates and conditions applicable to all funding required to ensure that the Project remains fully funded throughout the life-cycle of the Project and where applicable, complete term sheets are to be provided; ○ the Bidder is to provide a Financial Model prepared in accordance with Annexure E (<i>Financial and Insurance requirements</i>); and ○ the Bidder is to mark-up Schedule 15 (<i>Insurance</i>) to the PPP Agreement in the manner as required in Annexure C (<i>Legal requirements</i>) of this RFP.
Legal	<ul style="list-style-type: none"> ○ an undertaking by the Bidder to establish a SPV for the purpose of entering into the PPP Agreement; ○ an undertaking by the Bidder that if it is appointed as Private Party it shall not engage in any business or activities other than that contemplated under the PPP Agreement; ○ show that the members of the D&C Subcontractor and the Operations Subcontractor are Equity Members; ○ all Facilities Assets owned, managed and maintained by the Private Party must be transferred to the Department in accordance with the provisions of the PPP Agreement; ○ submission of all documents contemplated in the RFP and in Annexure C (<i>Legal requirements</i>) in the manner required; and ○ confirm the Department's authority to procure the Project (as required in terms of Annexure C (<i>Legal requirements</i>)).
Human resources	<ul style="list-style-type: none"> ○ the Bidder is to provide information, as detailed in Annexure F (<i>Human resources requirements</i>), on: <ul style="list-style-type: none"> ▪ staffing provisions ▪ the planned organogram – and aligned roles and responsibilities, decision making and interaction with

Evaluation area	Minimum requirement
	<p>the Department and between parties that are part of the consortium</p> <ul style="list-style-type: none"> ▪ performance management systems ▪ mechanisms for ensuring compliance with the Department's code of conduct ▪ the identified skills development strategy and an aligned roll-out plan ▪ current and proposed policies <p>○ compliance with labour legislation</p>
<p>Target Groups</p>	<ul style="list-style-type: none"> ○ the Bidder must demonstrate that it has met the minimum threshold of 50% Target Group scoring; ○ Private Party equity, including: <ul style="list-style-type: none"> ▪ percentage Black Equity, Women Equity and Active Black Equity. ○ Private Party management and employment including, <ul style="list-style-type: none"> ▪ list of key personnel and management of the Private Party and Committed Subcontractors; and ▪ structure of, membership and positions of the governing body of board of the Private Party and the participation of the Black Shareholders and Women Shareholders. ○ subcontracting including, <ul style="list-style-type: none"> ▪ capital expenditure cash flow to Black People/ Black Enterprises, Women/ Women Enterprises and Disabled Persons/ Disabled Person Enterprises; ▪ operating expenditure cash flow to Black People/ Black Enterprises, Women/ Women Enterprises and Disabled Persons/ Disabled Person Enterprises; ▪ procurement cash flow to Black SMMEs; and

Evaluation area	Minimum requirement
	<ul style="list-style-type: none"> ▪ employment of Disabled Persons. ○ local socio-economic impact, including: <ul style="list-style-type: none"> ▪ commitment of 1% of Unitary Payment to local economic development projects. ○ procurement strategy/ plan. ○ employment equity plans of the Private Party and Committed Subcontractors. ○ skills development including: <ul style="list-style-type: none"> ▪ commitment of 1,5% of payroll spent on the development of Target Groups. ○ a clear demonstration of how Target Groups are to be funded either via the DBSA package or via an alternative package
<p>Additional mandatory requirements</p>	<ul style="list-style-type: none"> ○ tax clearance certificates for all consortium members whose tax clearance certificate submitted as part of its RFQ Bid is not valid at the date of the RFP submission. ○ the Department's standard bidding documentation as specified in paragraph 9.3. ○ the Bidder must provide the information as required in Annexures I to M.

5.2 Variant Bids

A Bidder who complies with all the Essential Minimum Requirements for the Complaint Bid may submit a Variant Bid with its RFP Bid. The Variant Bid must be separately bound and clearly marked as a Variant Bid.

No Variant Bid will be considered unless a Compliant Bid is also submitted. A Variant Bid must still conform to the Essential Minimum Requirements. The risks and benefits of the Variant Bid must be motivated, particularly against the Compliant Bid and the Project objectives and demonstrating better Value for Money for the Department.

All Variant Bids will be evaluated in a similar manner as Compliant Bids.

In submitting a Variant Bid, the Bidder is not to resubmit all documentation forming part of the Compliant Bid, but only those aspects that form part of such Variant Bid. In particular the cost implications of the variation are required to be clearly set out, and if necessary a Financial Model in relation to each such Variant Bid is to be provided.

The Bidder is invited to submit Variant Proposals proposing, *inter alia*:

- a) environmental risk sharing;
- b) refinancing gains; and
- c) early works.

6 Service specifications for service delivery to the Department

In addition to the design, construction, fitting out, installation and commissioning works to be undertaken as required for the Project, the Department requires both hard and soft services according to the following definition:

- a) **Hard Services** involves the management of assets such as buildings, vehicles, furniture and office related equipment; and
- b) **Soft Services** involves the management of activities and the staff performing these activities.

The following categories of services have been identified by the Department:

- a) Services to be fully provided by the Private Party with respect to the soft and hard services;
- b) Services where the physical facilities (i.e. construction, equipping and maintenance) need to be provided by the Private Party, but the service will be provided by the Department, either because of strategic government considerations or as a result of operational requirements of the Department; and
- c) Services where the space need to be provided and maintained by the Private Party, but the service will/can be provided and operated by a third party (i.e. a specialist subcontractor to the Private Party).

Each of these services listed below contains elements of both the hard and the soft services to be provided for the Project. The Bidder is to note that the description below serves as an overall picture of the Department's service requirements and that the details pertaining to each and every

service listed below is contained in the Output Specifications and its data sheets. The Bidder should also have regard for the Facilities Assets in respect of each of the Services required to be provided by the Private Party such that the Output Specifications can be met.

6.1 Services to be fully provided by the Private Party

Services to be fully provided by the Private Party will include *inter alia* the following:

- a) management of the Services;
- b) help desk;
- c) cleaning: this includes general office cleaning, carpet cleaning and external cleaning;
- d) pest control;
- e) office plants;
- f) management of the Facilities and Facilities Assets;
- g) management of the energy and utilities supply;
- h) waste management;
- i) fleet management: fleet management will include vehicles and drivers, if required. The Bidder is to note that the Department intends retaining drivers on its staff complement for specific tasks;
- j) garden services and landscaping; and
- k) move management: this should include portering and churn management as well as conferencing movement requirements.

6.2 Services where there is a shared responsibility between the Department and the Private Party

Services where the physical facilities (i.e. construction, equipping and maintenance) need to be provided by the Private Party, but the service will be provided by the Department, will include *inter alia* the following:

- a) security;
- b) mail;
- c) reprographic services;
- d) events management relating to i.e. Conferencing area;
- e) planning and organisation of training: the Department's Directorate within the FSI that is responsible for the planning and organisation of all training events, shall remain responsible therefore, as this forms an integral part of the FSI;
- f) parking management;
- g) telephone equipment;

- h) Guest House management: The Department will provide the staff to run and manage the Guest Houses, including the cleaning; and
- i) ICT: The ICT Scope of Work for this Project will only cover the relevant space requirements, cabling, telephony equipment, certain audio-visual equipment and photocopying equipment (the details of which are provided in Schedule 3 (*Information Technology Infrastructure*) to the PPP Agreement).

The Bidder is to take due cognisance of the importance to the Department to effectively and efficiently deal with the required interfaces between the Department and the Private Party with respect to the Services, as more fully described in the service sheets included as part of the Output Specifications, and the importance of the Private Party providing the Department with appropriate support in these areas.

It is furthermore important to note that the Department will retain household aids to provide basic tea and coffee services to the personnel of the Department and drivers and messenger services to provide the relevant support services to the Department. In respect of these services only space is to be provided by the Private Party and the Bidder is referred to the service specification data sheets for more detail in this regard

6.3 Services which may be provided by a third party

Services where the space needs to be provided and maintained by the Private Party, but the service may be provided and operated by a third party will include *inter alia* the following:

- a) catering: there are five different categories of catering to be provided. Details are contained in the Output Specifications;
- b) crèche;
- c) gym;
- d) cafeteria;
- e) travel agency; and
- f) Automatic Teller Machine (ATM).

The Output Specifications requirements for the services for the Project have been identified as the minimum requirements of the Department and should be compliant with prevailing legislation and the relevant South African National Standards or other recognised industry best practice specifications.

The Department expects the Bidder to address its responses towards the Output Specifications

through taking cognisance of innovative ideas and solutions. The Private Party will be required to provide its own designs and solutions to any constraints or problems that may occur throughout the Project Term.

Specific industry recognised appropriate training is required on any system, component, hardware, software or any other installation provided by the Bidder, but that is required to be operated by personnel of both the Private Party and the Department.

6.4 Performance specifications

The Bidder is referred to the draft PPP Agreement, which addresses the operations services in more detail, especially the following schedules to the draft PPP Agreement:

- a) Schedule 3 (*Information Technology Infrastructure*) to the PPP Agreement;
- b) Schedule 6 (*Output Specifications*) to the PPP Agreement;
- c) Schedule 7 (*Performance Standard Specification*) to the PPP Agreement; and
- d) Schedule 8 (*Payment Mechanism*) to the PPP Agreement.

The Bidder is expected to read, interpret and mark-up the abovementioned schedules in an integrated way so as to ensure that the required working environment is provided to the Department as stipulated in the Output Specifications and that the service performance levels as stated in the Performance Standards are met by the Private Party with regard to the provision, management, monitoring, maintenance and security of the required operations. The requirements for the Project regarding the payment mechanism, performance monitoring and consequences of failure to perform the services at the stated level is provided in Schedule 8 (*Payment Mechanism*) to the PPP Agreement.

6.5 Departmental staff affected by the commissioning of services to the Private Party

The Department has assessed the various options available relating to the staff employed by the Department to currently render services which will be outsourced to the Private Party in future. It is the Department's view that the concessioning envisaged for this Project does not fall within the scope and ambit of Section 197 of the LRA, and therefore, Department Employees associated with these "functions" will not be transferred, in terms of this section, to the Private Party. The Department's view is based on the following facts that have been highlighted by the Feasibility Study:

- a) mostly non-core services, including cleaning, transport, and maintenance services etc, will be concessioned to the Private Party;
- b) the moveable assets associated with these services will not be transferred to the Private Party. These assets will be retained by the Department;
- c) while similar services will be provided “post transfer”, it is intended that the Private Party will be providing the services in a new manner, with the use of its own equipment. All moveable assets associated with these services will be retained by the Department and the Private Party will therefore make use of either new and/ or its own existing tools/ machinery; and
- d) no fixed assets will transfer to the Private Party.

Therefore, Department Employees associated with these “functions”, will not be transferred to the Private Party in terms of Section 197 of the LRA. No current Department Employees affected by services to be outsourced to the Private Party will be retrenched by the Department. The Department has, together with the labour unions, initiated a process to manage the continued employment of the affected staff within the Department and the broader public service. It is envisaged that the affected Department Employees will be retrained and absorbed elsewhere in the organisation in posts such as messengers and household aids.

6.6 Conditions-of-asset-specifications

Six months prior to the Expiry Date (as defined in the PPP AIment), the condition of all assets (including the physical infrastructure of the Facilities) shall be determined so as to ensure that the Facilities and the Facilities Assets have an average lifespan 3 (three) years. To the extent the assets require maintenance and/ or replacements to achieve such average lifespans, a final maintenance bond shall be required to be issued in favour of the Department (in this regard refer to clause 26.7 (*Final Maintenance Survey*) of the PPP Agreement).

7 Legal requirements

Each RFP Bid is to comply with the terms and conditions of this RFP, and more particularly with paragraphs 3, 5 and 9 as well as Annexure C (*Legal requirements*).

7.1 DBSA legal agreements

The Bidder is referred to the Term Sheets provided in Annexure N (*DBSA Funding Offer*) for that Bidder who elects to make use of the DBSA Funding Offer. For that Bidder who elects not to utilise the DBSA Funding Offer, the Department would require them to demonstrate that they

have an alternative funding and support package in place (including technical assistance to empower the Target Groups), which represents an improvement upon the DBSA package.

8 Commitments required from the Bidder

The detailed requirements from the Bidder is indicated in the annexures as follows:

- a) Annexure A (*Overall integrated Project solution and Project management requirements*)
- b) Annexure B (*Technical requirements*)
- c) Annexure C (*Legal requirements*)
- d) Annexure D (*Target Group requirements*)
- e) Annexure E (*Financial and Insurance requirements*)
- f) Annexure F (*Human resources requirements*)

9 Instructions to the Bidder

The RFP Bid is to be made in compliance with all the terms and conditions set out in this document.

9.1 RFQ Bid information to form part of RFP Bid

The information requested for the RFP is in addition to that submitted as part of the Bidder's RFQ Bid and shall be evaluated as a consolidated submission. The Department will therefore not review the information presented in the Bidder's RFQ Bid again, but will expect the Bidder to present a complete RFP Bid. If any information, relating to the Bidder and each of its Equity Members and Committed Subcontractors, submitted in its RFQ Bid has been amended, the Bidder is to provide in its RFP Bid such amended information clearly indicating the changes from the RFQ Bid.

9.2 Format of RFP Bid

The Bidder's RFP Bid should be complete and cover each and all of the issues raised in this RFP. All documentation and communication must be in English.

ALL PAGES OF THE RFP BID OR EACH SEPARATELY BOUND PART MUST BE NUMBERED CONSECUTIVELY FROM BEGINNING TO END AND A DETAILED INDEX TO THE DOCUMENTS CONTAINED THEREIN SHOULD BE PROVIDED.

In presenting its RFP Bid the Bidder is required to adhere to the format below to aid in the evaluation process. In respect of both the Compliant Bid and Variant Bid (if applicable) each of the project management, technical, legal, financial (including insurance), human resources and

Target Group responses should be separately bound.

Format of the RFP Bid:

- a) Covering letter
- b) Executive summary (no longer than 20 pages in length)
- c) Compliant Bid
 - i) Project management response
 - ii) Technical response
 - iii) Legal response
 - iv) Target Group response
 - v) Financial and Insurance response
 - vi) Human resource response
 - vii) Declaration by the Bidder
 - viii) Letters of intent from the Equity Members and Committed Subcontractors
 - ix) Bid security
 - x) Confidentiality undertakings
 - xi) Standard bidding documents
- d) Variant Bid(s)

9.3 Clarification in relation to standard bidding documents of the Department

9.3.1 Documents issued

The following standard bidding documents are attached as Annexure M (*Standard bidding documents*) to this RFP:

General Conditions

SBD 1		General conditions and particulars of consortium
SBD 2	-	Tax clearance requirements (2 pages)
SBD 4	-	Declaration of interest (2 pages)
SBD 5	-	The National Industrial Participation programme (2 pages)
SBD 6.1	-	Preference points claim form in terms of the Preferential Procurement Regulations, 2001 (7 pages)

9.3.2 Documents to be returned

The above standard bidding documents are issued in respect of all Government bids and have not been customised for this Project. It is thus possible that one or more of the said documents may not be applicable to the Project, in which case the Bidder may mark such document as "Not Applicable".

All standard bidding documents issued are to be completed, signed and returned together with the RFP Bid. These documents may not be retyped and may not contain corrections of any nature.

Copies may, however, be made of the blank documents and the details required in these forms are to be completed in legible handwriting.

9.3.3 SBD 2

The Bidder is to comply with the requirements of this document. Where tax clearance certificates submitted as part of the RFQ Bid are still valid at the close of the RFP, such certificates need not be re-submitted. **However, any tax clearance certificate expiring during the evaluation process or following appointment of the Preferred Bidder before financial close shall be required to be replaced timeously by the relevant entity.**

9.3.4 SBD 3.3

This document is not applicable to this stage of the Project and may be marked as such. The Bidder should, however, complete first lines of SBD 3.3 (name of Bidder and Bid number).

9.3.5 SBD 4

The Bidder is to complete the document as well as complete the declaration on page 2 thereof.

Please note that the reference to "principal" on the first page of the document refers to the Department.

9.3.6 SBD 5

Please see Annexure C (*Legal requirements*), paragraph 1.5.2 of this RFP in this regard.

9.3.7 SBD 6.1

The Bidder is to note that the 90/10 preference point system is applicable to this Project (par 1 of SBD 6.1). This is also reflected in the evaluation table in paragraph 11, Table 6 (*Weighting of the scores per evaluation area*) of this RFP.

Paragraphs subsequent to paragraph 1.3.1.2 of SBD 6.1 are not applicable to this Project.

The Bidder may mark these pages "Not Applicable" but should sign the last page of this form to confirm its acceptance of the 90/10 principle.

9.4 Close Date for RFP Bid

- a) The Bidder's RFP Bid is to be submitted by not later than **3:00 pm** by **7 November 2005** (the "Close Date") to:

Department of Foreign Affairs: Procurement Office
2nd Floor
Sancardia Building
Corner Beatrix and Church Streets
Pretoria

For the attention of: Ms. C Bentley or Mrs. Z Ngobeni
clearly marked as follows:

"Department of Foreign Affairs: Finance, Design, Construction, Operation and Maintenance of a Suitable and Sustainable Working Environment (Accommodation and Related Services) – Response to the Request for Proposal (Tender Number DFA 17- 04/05)"

- b) Each RFP Bid is to be hand delivered to the above address before the Close Date.
- c) The Department is appreciative of the fact that the RFP Bids will comprise large volumes of documents and the preparation of mock-ups. For this reason, the Bidder will, one month prior to the Close Date, be provided with a key for a room in which it will be able to prepare its mock-ups, place all documents and other items comprising its RFP Bid. This room will be locked by the Bidder and sealed by the Director: Procurement or her delegate, at the closing time of 3:00 pm on the Close Date, in front of the Bidder. These rooms will be opened by the Project Officer after the Close Date.
- d) The Department may in its sole discretion extend the Close Date and time for the submission of RFP Bids at least 7 Business Days prior to the Close Date. In such an event, the terms and conditions of this RFP shall be subject to the new deadline as extended.
- e) RFP Bids received after the Close Date will be marked as late and may, in the Department's sole and absolute discretion be rejected.

9.5 RFP Bid copies and presentation of the RFP Bid to the Department

Each RFP Bid is required to be delivered by way of:

- a) a hard copy consisting of one master RFP Bid and five copies thereof; and
- b) a soft copy consisting of one master compact disc and 9 additional compact discs, and the documents, with the exception of the Financial Model and the Project Plan, contained therein to be in Microsoft Word format, version 98 or later, save where the document cannot be accessed by Microsoft Word, in which event the document must be provided in an Adobe Acrobat PDF format; the Financial Model is to be in Microsoft Excel format,

version 98 or later, and the Project Plan is to be in Microsoft Project format, version 98 or later;
each marked as either “master” or “copy”, as the case may be.

With respect to the building model and the mock-up as required in terms of Annexure B (*Technical*) only one of each is required to be presented.

The Bidder may be required to do a presentation of the salient features of the RFP Bids to the Department. If required, the Project Officer will arrange a suitable date and venue with each Bidder.

9.6 Contact policy

- a) All queries and requests for clarification in respect of this RFP are to be addressed, in writing, to the Project Officer, at the following address:

Ms Bernice Africa

Telephone: (012) 351 1407

Facsimile: (012) 351 1306

E-mail: africab@foreign.gov.za

Physical address: Room 219, Eikendal Building
Tulbagh Park
Corner of Church and Duncan Streets
Hatfield
PRETORIA

Postal address: Department of Foreign Affairs
Private Bag X152
PRETORIA
0001

With copies sent via e-mail to The Project Manager at mecorp@icon.co.za.

- b) No information or clarification shall be requested by the Bidder, its Equity Members, the Committed Subcontractors nor any of its agents, Lenders or advisors or any related person from any member of the Advisory Team, the employees of the Department or any other Government official who may be associated with the Project (other than the Project Officer), without the prior written consent of the Project Officer.
- c) In the event that any of the Bidder, its Equity Members, the Committed Subcontractors or any of its agents or advisors make any such prohibited contact, the Department reserves the right in its sole and absolute discretion to disqualify any or all of the Bidder, the Equity Members or the Committed Subcontractors being in breach of this paragraph 9.6

- from the procurement of the Project.
- d) Neither the Bidder, its Equity Members, the Committed Subcontractors nor any of its advisors or agents may rely on any information provided to any of them outside of the scope of paragraph 3.6b) above.
 - e) The Department will respond to queries by way of a written Briefing Note distributed via e-mail to the Bidder simultaneously and reserves the right not to respond to any particular query.
 - f) It is the responsibility of the Bidder to identify in its queries or requests for clarification which information it deems to be confidential to its RFP Bid and which it does not wish to have communicated to other Bidders, provided that the Bidder gives its grounds (in writing) for requiring such information to be treated as confidential, and in respect of which the Bidder's attention is drawn to the requirements of the Promotion of Access to Information Act, 2000 for determining whether the Department shall be entitled to respect the Bidder's request for confidentiality.
 - g) The Bidder may request clarification of any item contained within this RFP by not later than 7 Business Days before the Close Date, after which date the Department will not be obliged to enter into further correspondence with the Bidder on questions related to the Project.
 - h) In the event that an urgent request for clarification is required by the Bidder, such request must be clearly marked as "Urgent".
 - i) Unless a request for clarification is marked as "Urgent" the Department reserves the right to respond to all requests from the Bidder on a weekly basis.
 - j) The Department in its sole discretion may decide to respond directly to a request from the Bidder.

9.7 Inconsistency

- a) In the event that the Bidder identifies any ambiguities, errors or inconsistencies between the various portions of this RFP, the Bidder undertakes to notify the Project Officer in writing accordingly, and the Department undertakes to provide clarification as to the intended position to all Bidders by way of a Briefing Note; save that should such a request be received later than 7 Business Days before the Close Date, the Department shall not be obliged to provide such clarification.
- b) To the extent that any inconsistency exists or shall exist between the terms of the PPP Agreement, the provisions of the RFQ and the provisions of this RFP, the terms of the PPP Agreement shall prevail.

9.8 Further information

- a) The Department reserves the right to seek additional information from the Bidder, as it may in its sole discretion determine, whether such information has been requested under this RFP or otherwise, and may require the Bidder to make oral presentations for clarification purposes or to present supplementary information, if so required.
- b) The Department may issue additional information regarding this RFP on an *ad hoc* basis, which information shall be provided in the form of Briefing Notes.
- c) Briefing Notes will be sequentially numbered and will indicate whether they supplement, vary or amend any portion of the RFP. All Briefing Notes shall be provided to the Bidder via e-mail to that address provided by the Bidder and the Bidder is advised to promptly acknowledge receipt thereof to the Project Officer in accordance with paragraph 9.6a), and in any event within 24 hours of the Briefing Note being issued. The Bidder shall ensure that its RFP Bid is prepared taking into account all such Briefing Notes.
- d) The Department accepts no responsibility for the failure by the Bidder to receive a Briefing Note issued, whether by virtue of such Bidder's contact details provided being incorrect or otherwise.
- e) The Department reserves the right to hold one or more Bidders' Briefing Sessions, the first of which shall be that stated in paragraph 4.9.1 above.

10 Evaluation Criteria

10.1 Evaluation Criteria per discipline

In addition to the Essential Minimum Requirements as stated in paragraph 4 and having due regard to the commitments required from the Bidder, Table 5 (*RFP Bid Evaluation Criteria*) below gives, *inter alia*, an indication of the main Evaluation Criteria the evaluation teams will be using to evaluate the evaluation areas. The Evaluation Criteria are merely indicative of the criteria to be applied and should be used by the Bidder to improve the quality and robustness of its RFP Bid. In each instance the Bidder is requested to note that it is required to ensure that its RFP Bid is complete in relation to all requested information. Any late submission of information may be either ignored in the evaluation of the RFP Bid or alternatively, if evaluated, such RFP Bid may attract a lower score than if the same information had been submitted timeously.

Table 5 – RFP Bid Evaluation Criteria

Evaluation area	Evaluation criteria
Overall integrated Project	<ul style="list-style-type: none"> • extent of the Bidder's understanding of the Department's

Evaluation area	Evaluation criteria
solution and Project Management	<p>Project Goals and the Bidder's stated plan to assist the Department in achieving these goals, including a proposed approach towards evaluating the extent to which the goals are being met during the Project Term;</p> <ul style="list-style-type: none"> • quality of the Bidder's integration of the various Project scope elements and service delivery requirements to present a total solution to the Department; and • extent of the Bidder's understanding of what would constitute a successful long term strategic partnership between the Private Party and the Department. • comprehensiveness and applicability of the Bidder's Project management capacity and capability during all phases of the Project cycle, and specifically in respect of: <ul style="list-style-type: none"> ○ organogram and staffing of the project management function; ○ Project Plan and the Bidder's ability to meet the Department's required time frames, stating all assumptions; ○ compositions of the Bidder's negotiation team; ○ Project-related mechanisms/ structure to facilitate and sustain an optimal long term partnership between the Private Party and the Department throughout the Project Term; ○ planning required for the interaction with other Project stakeholders; ○ the role that the Bidder's project management function (and other proposed overall management and co-ordination levels will fulfill in integrating the various members of the Bidder (i.e. Equity Members, Committed Subcontractors and especially also the Target Groups) into a coherent and well performing entity who can deliver the Project to the Department;

Evaluation area	Evaluation criteria
	<ul style="list-style-type: none"> ○ approach towards general Project awareness and comprehension during the phases of the Project cycle, to add value to the partnership between the Department and the Private Party; and ○ extent of opportunities created for the transfer of project management skills to Target Groups during the phases of the Project cycle; and ○ extent of opportunities created for the transfer of project management skills to previously disadvantaged individuals during the phases of the Project cycle.
<p>Technical: design</p>	<ul style="list-style-type: none"> • extent, quality, safety, cost effectiveness, functionality and innovation of designs • integration of the aspects of the Facilities • extent of the quality of the integration of operations in the design • level of design and robustness of cost estimates • extent to which the Bidder's design meets the urban design guidelines and Output Specifications • the Bidder is to provide an indication that its design will meet Tshwane's town planning requirements in terms of the Ordinance and with Tshwane's bye-laws • quality of materials and components proposed to meet the Output Specifications • quality of architects' approach to planning, functionality, innovation and sustainable design principles • integration of services, space, structure and energy saving devices • quality of engineers' design and planning

Evaluation area	Evaluation criteria
	<ul style="list-style-type: none"> • management of the design process • integration of design, development and operations • evidence that the Bidder intends to procure security systems from NIA-approved contractors • evidence of the opportunities for the job creation during the Development Period and Service Period of the Project • compliance with NIA requirements.
<p>Technical: construction</p>	<ul style="list-style-type: none"> • quality of the construction programme • extent to which the construction time frames meet the Department's originally desired occupation date, being the end of December 2006 or as close as possible thereto • quality of the management of the construction programme • impact on social and biophysical environment (incorporated into the Bidder's response to the environmental management plan) • quality of safety and security on site • occupation programme and, if required, occupation in Phases • the Bidder's response to the principles for the environmental management plan • compliance with NIA requirements
<p>Technical: transitional arrangements</p>	<ul style="list-style-type: none"> • quality of the Bidder's proposed overall response to the Relocation of the Department's staff • evidence of a plan to ensure continuity of service • integration of the Bidder's ICT technical response with the Department's ICT implementation plan • evidence of integration of planning between the construction team and the operations team
<p>Technical: operations</p>	<ul style="list-style-type: none"> • extent to which asset management and maintenance

Evaluation area	Evaluation criteria
	<p>philosophy support the Project objectives and maximise Value for Money</p> <ul style="list-style-type: none"> • extent to which proposed performance targets and measurement systems exceed minimum specifications • comprehensiveness and quality of Bidder's proposed operating methodology • extent of the understanding of the regulatory requirements which are required to be met • integration of the Project into the Department's existing services • integration of the Project into the MSP • quality and type of proposed services to end users • the percentage mark-up on Small Works • quality of emergency/ contingency planning and general safety plans • compliance with the Department's monitoring and reporting requirements • the Bidder's response to the principles for the environmental management plan • compliance with NIA requirements
<p>Technical: Quality Management Systems</p>	<ul style="list-style-type: none"> • extent to which the quality management system meets the Department's desired outputs during both the Development Period and the Service Period • comprehensiveness and quality of Bidder's proposed quality management systems • extent to which the Bidder's proposed quality management system meets measures the performance standards and integrates with the payment mechanism
<p>Legal</p>	<ul style="list-style-type: none"> • the Bidder's proposed SPV and Committed Subcontractor

Evaluation area	Evaluation criteria
	<p>structures</p> <ul style="list-style-type: none"> • level of commitment of each Equity Member (in respect of shareholding, funding and/or any other expressed commitment) • mark-up of the draft PPP Agreement (together with its schedules) all in accordance with Annexure C (<i>Legal requirements</i>) • the D&C Subcontract and Operations Subcontract heads of terms to ensure appropriate risk transfer • evidence of the Bidder's clear understanding of the Payment Mechanism • response to the issue of the Department's authority to procure the Project • evidence of the acceptance by the Lenders of the Bidder's mark-up of the PPP Agreement (together with its schedules) • the Lenders are to mark up the Finance Direct Agreement • the Bidder's proposed negotiation timetable • nature of the response to the signature checklist to the PPP Agreement (as contemplated in Annexure O (<i>PPP Agreement checklist</i>)) and the anticipated conditions precedent Financing Agreements and the PPP Agreement • the Lenders' detailed term sheet in relation to the financing (in the event that the Lender does not underwrite all the debt financing, the detailed DBSA term sheet should be included) • evidence of the Bidder's acceptance of the lender's term sheets
Financial and Insurance	<ul style="list-style-type: none"> • total project cost in relation to the Affordability constraints of the PPP • realism of operating and capital expenditure, including an assessment of whether the quality management systems have

Evaluation area	Evaluation criteria
	<p>been costed in the Financial Model</p> <ul style="list-style-type: none"> • robustness of the financial proposals, including their sensitivity to changes in the following: <ul style="list-style-type: none"> • operating and maintenance costs, currency fluctuations, inflation and interest rates • changes in the cash-flow profiles • robustness of the funding structure • level and nature of Equity in the funding structure • cost of Target Group commitments • level of commitment demonstrated by the debt and Equity providers: <ul style="list-style-type: none"> • terms and conditions linked to the provision of this funding • level of risk assumed, and deviation from the terms of the tender documentation • cost, level and nature of insurance cover proposed • risk allocation: the risk profile proposed by the Bidder in its RFP Bid will be tested in relation to: <ul style="list-style-type: none"> ○ the nature and extent of the risk ○ the likelihood of risk ○ passing down of the risk and obligations assumed by the Private Party in the following: <ul style="list-style-type: none"> • PPP Agreement to the other key contractors. • consistency between the financing arrangement and the draft PPP Agreement, as well as the extent of acceptance by the Lenders of the terms of the draft PPP Agreement • what percentage of total debt outstanding the Bidder believes should be repaid as compensation on Private Party default

Evaluation area	Evaluation criteria
	<ul style="list-style-type: none"> • the Bidder's proposal regarding the percentage of the Adjusted Debt (as defined in the PPP Agreement) • the Bidder's proposal regarding the sharing mechanism resulting from a Private Party Variation (as defined in the PPP Agreement) • the cost of the Bidder's proposed minimum insurance and incorporated into the Financial Model • extent of the mark-ups to the minimum insurance schedule • extent to which the Bidder's proposed insurance schedule offers less than the minimum insurance schedule provided in Schedule 15 (<i>Insurance</i>) to the PPP Agreement; and • quality of the Bidder's risk approach to dealing with the following: <ul style="list-style-type: none"> ○ uninsurable risks ○ capping of public indemnity cover ○ force majeure risk
Human resources	<ul style="list-style-type: none"> • suitability of the Bidder's proposed staff to work and partner with Departmental staff and to achieve the Output Specifications • quality of proposed approach to addressing staffing requirements in respect of the Services • suitability of the Bidder's proposed organogram and management structure to meet the Output Specifications • quality and appropriateness of performance management system and staff management approach • quality and appropriateness of suggested approach through which to ensure compliance with the Department's code of conduct • quality and appropriateness of training and skills

Evaluation area	Evaluation criteria
	<p>development plans</p> <ul style="list-style-type: none"> • quality of current human resources policies and procedures • quality of current labour relations policies • quality and appropriateness of proposed future human resources policies and procedures (if different from current) • alignment with the human resource principles specified
<p>Target Groups</p>	<ul style="list-style-type: none"> • Private Party and Committed Subcontractors equity <ul style="list-style-type: none"> ○ credentials of the Black Shareholders of the SPV and their capacity to provide the finance (if the DBSA funding package is not accepted) ○ credentials of the Black Shareholders of the Committed Subcontractors ○ nature and extent of the involvement of Black Shareholders in either the Bidder or the Committed Subcontractors, in the day-to-day operations of the Bidder and/ or the Committed Subcontractors, respectively ○ demonstrable evidence of the extent of commitment by the Black People and/or Black Enterprises in the Bidder ○ in the event that the DBSA funding package is not accepted, the terms and conditions of the alternative funding package and the closeness of fit in meeting the objectives as set out in paragraph 4.11.1 above (i.e. provision of concessional financing, performance bonds and technical assistance) • Private Party management & employment <ul style="list-style-type: none"> ○ appropriateness of organogram depicting the involvement of Black People in the management positions within the executive and governing bodies

Evaluation area	Evaluation criteria
	<p>of the Private Party</p> <ul style="list-style-type: none"> ○ appropriateness of organogram depicting the involvement of Black People employed by the Private Party ○ demonstration of succession planning to ensure sustainability of the targets for Black People either in management positions or employed by the Private Party ○ commitment to spend 1,5% of payroll on and demonstration of appropriate work place skills plan for the development of Target Groups (of which at least 1% must be spent on Black employees) skills development by Private Party and Committed Subcontractors <ul style="list-style-type: none"> • Subcontracting <ul style="list-style-type: none"> ○ demonstrable evidence of the Committed Subcontractors' ability to meet the required procurement targets ○ demonstrable evidence of the Committed Subcontractors' ability to meet the required capital and operating expenditure cash flows to Black People/ Black Enterprises, Women/ Women Enterprises and Disabled Persons/ Disabled Person Enterprises • Local socio-economic impact <ul style="list-style-type: none"> ○ Commitment to allocate and spend 1% of the Unitary Payment on sustainable and effective programme with local socio-economic impact ○ the extent of innovation demonstrated in creating local economic development initiatives and in meeting the needs and expectations of the local community

Evaluation area	Evaluation criteria
	<ul style="list-style-type: none"> ○ extent to which jobs will be created through the Project ○ demonstration of initiatives used to develop small, medium and micro enterprises. • Women <ul style="list-style-type: none"> ○ demonstrable evidence of the involvement of Women at equity ownership, management and subcontracting levels of the Project • Disabled Persons <ul style="list-style-type: none"> ○ demonstrable evidence of the involvement of Disabled Persons at management and subcontracting levels of the Project

10.2 Price

The RFP Bid price shall be calculated as the net present value of the Unitary Payment, using the assumptions per Annexure D (*Target Group requirements*) of this RFP i.e. nominal discount rate of 11% per annum (using an inflation assumption of 5% per annum). For the purposes of evaluation the Department shall make appropriate adjustments to the Unitary Payments (“the Adjusted Price”) based upon the risk transfer accepted by the Bidder. The Adjusted Price shall be used for the purposes of determining:

- a) the Project’s Affordability when compared to the Unitary Payment in the first full year of operation; and
- b) the Value for Money when compared to the net present value, including transferred risks, of the financial model annexed the Feasibility Study;

and therefore the scoring of the Bidder’s RFP Bid.

11 Evaluation and scoring process

The Department has, in accordance with the National Treasury’s Practice Note 6 of 2004, established three tiers of Evaluation Committees: the technical evaluation team, the co-ordination Evaluation Committee and the Project Evaluation Committee.

At the first level, the technical evaluation teams will consider the financial, technical, legal,

human resources, insurance and Target Groups as reflected in the RFP Bids. The technical evaluation teams shall, *inter alia*, include members of the Department, the Advisory Team, the National Treasury and the DPW and any further members who shall be co-opted into the technical evaluation teams at the discretion of the Department. In evaluation, the technical evaluation teams will assess the RFP Bids by scoring each of the under-mentioned categories. Each of the technical evaluation teams will prepare a report based upon the scoring achieved in each of the categories. In the event that the Bidder choose not to make use of the DBSA Funding Offer information regarding alternative financing packages should be clearly marked and will not be provided to the DBSA by the Department.

At the second level, the co-ordinating Evaluation Committee will include, *inter alia*, representatives from the Department, the National Treasury, the DPW, the Project Manager and the Advisory Team and will combine the category scoring from the technical evaluation teams for both the financial and non-financial elements of the RFP Bid in order to determine an overall recommendation to the Project Evaluation Committee.

At the third level, the Project Evaluation Committee will consist of the Director-General and his Deputy Directors General and in the discretion of the Director-General, other co-opted members, but shall not include any members of the Advisory Team. The authority to select the Preferred Bidder will rest solely with the Project Evaluation Committee. Both the technical evaluation teams and the co-ordinating Evaluation Committee will be responsible merely for provision of information and reports to the Project Evaluation Committee.

The technical evaluation teams shall score each bid on the basis of the following categories:

Table 6 – Weighting of the scores per evaluation area

Evaluation Area	Weighting
Overall integrated Project solution and Project management	10
Technical	60
- Technical	35
Design and sustainability and construction	
Operations	

- Financial & Insurance	10
- Legal	10
- Human resources management	5
Target Groups	10
- Private Party Equity	
- Private Party management & employment	
- Committed Subcontractors (including the D&C Subcontractor and the Operations Subcontractor)	
- Women and Women Enterprises	
- Disabled Persons and Disabled Person Enterprises	
- Funding of Target Groups' Equity	
Price	20

The Bidder is to note that the weighting of 10 that has been allocated to the Target Groups element is by no means an indication of the relative importance of this element. It merely reflects the legislative requirement in a project of this size, a maximum of 10 points can be allocated to empowerment issues.

Once a score has been calculated in accordance with Table 6 (*Weighting of the scores per evaluation area*) above, the Bidder's final score shall be calculated in accordance with the following formula:

$$a \times (\text{technical score}/100) + b \times (\text{BEE score}/100) + c \times (\text{price score}/100) + d \times (\text{price score}/100) = e$$

where:

- a* is the weighting for the overall integrated Project solution;
- b* is the weighting for technical elements
- c* is the weighting for Target Group elements;
- d* is the weighting for price,
- e* is the total score achieved by the Bidder.

Annexure A: Overall integrated Project solution and Project management requirements

This annexure sets out the information that the Bidder is required to provide with regard to its overall integrated Project solution and bid/project management approach.

The Department views the ability of the Bidder to provide an overall integrated solution to meet the Departments full Project requirements, as well as the bid and project management capacity and capability of the Bidder as crucial elements in the successful preparation and implementation of the Project.

1.1 Overall integrated Project solution

The Bidder will be evaluated on the:

- a) extent of the Bidder's understanding of the Department's Project Goals and the Bidder's stated plan to assist the Department in achieving these goals, including a proposed approach towards evaluating the extent to which the goals are being met during the Project Term;
- b) quality of the Bidder's integration of the various Project scope elements and service delivery requirements to present a total solution to the Department;
- c) extent of the Bidder's understanding of what would constitute a successful long term strategic partnership between the Private Party and the Department; and
- d) extent to which the Bidder has managed to integrate the various legal entities comprising the consortium, into a holistic unit during the process leading up to the RFP Bid submission, as well as the approach to be followed to further enhance the required consortium cohesiveness to perform an optimal role during the Service Period of the Project; and
- e) quality of the Bidder's understanding and approach to optimally gear up for delivering on a large greenfields project.

Although the Department appreciate that the details of the Project and the monitoring mechanisms are contained in the PPP Agreement and its annexures, the Department is of the view that there are softer elements that will impact on the success of the Project that is not necessarily contained in any of the formal contract monitoring mechanisms. Elements that may be relevant in this regard are *inter alia*:

- a) managing expectations of both parties, especially at the start of the beginning of the Project Term and at further intervals;
- b) innovation and continuous service delivery improvement;

- c) capacity of both the Department and the Private Party to effectively and efficiently manage the Project and deal with crises situations which might arise over and above the normal day-to-day operations;
- d) reflection on, and the capturing of, lessons learnt over the Project Term, i.e. during the start up phase and at later intervals; and
- e) the method of evaluation (qualitative/ quantitative) and the information gathering to enable evaluation to be undertaken.

1.2 Project management

The Bidder will therefore be required to show appropriate and adequate Project management capacity and capability during the full PPP project cycle to manage the complexity and challenges of the Project. Key phases of the PPP project cycle are viewed by the Department as constituting the following:

- a) Procurement: RFP Bid preparation through to the Effective Date of PPP Agreement and Financial Close
- b) Development Period: post-Financial Close until commencement of the delivery of the Services
- c) Service Period: period of the delivery of the Services throughout the remaining life of the Project
- d) Exit: expiry of the PPP Agreement or termination thereof.

The Department is of the opinion that effective and efficient project management by the:

- the Bidder in the structuring of its RFP bids;
- the Preferred Bidder in its negotiation with the Department to achieve a signed PPP Agreement and Financial Close; and by the
- the Private Party in managing its long-term partnership with the Department;

will play a significant role in ensuring that the Project is optimally structured to achieve the Project Goals and to ensure optimal partnership management, service delivery management and administration of the PPP Agreement.

The Bidder should provide the following information in its RFP Bid:

- a) Project management capacity and capability during all phases of the Project cycle:
 - i) an organogram showing *inter alia* the linkage between the Project management function and the rest of the consortium of the Bidder, the staffing of the project management function and curricula vitae of the key people within this function, if

the organisational placement and staffing of the Project management is expected to change during the various phases of the Project cycle, this should be indicated and the relevant information provided;

- ii) a Project Plan, in MS Project, version 98 or later, to clearly demonstrate to the satisfaction of the Department, the required resources, the milestones and related timeframes through to commencement of the Service Period. The Bidder is required to document all the anticipated conditions precedent to the Financing Agreements and to clearly demonstrate in the Project Plan its anticipated time frame to achieve Financial Close. A Project Plan demonstrating a protracted period between Effective Date and Financial Close will count against the Bidder;
- iii) the Bidder's proposed approach towards structuring an optimum mechanism/(s) to facilitate and sustain an optimal long term partnership between the Private Party and the Department through the full term of the Project (in this regard please also refer to Clause 23 (*Project Committee*) and Clause 73 (*Representatives*) of the PPP Agreement, as well as the National Treasury PPP Manual, Module 6: *Managing the PPP Agreement*, to inform the RFP Bid in respect of any structures and their functions which the Bidder may wish to propose to be created as from Effective Date);
- iv) the Bidder's proposed approach towards the required interaction with other Project stakeholders, especially those stakeholders involved in the relevant approval processes required for the Project, i.e. Tshwane, DEAT, GDACE and SAHRA;
- v) the Bidder's proposed approach towards addressing the role that its project management function (and other proposed overall management and co-ordination levels) could fulfil in integrating the various members of the Bidder (i.e. Equity Members, Committed Subcontractors and especially also the Target Groups) into a coherent and well performing entity who can deliver the Project to the Department;
- vi) show how the proposed project management function of the Bidder will be structured to enhance general Project awareness & comprehension during the phases of the Project life-cycle, and to add value to the partnership between the Department and the Private Party; and
- vii) state how the Bidder will provide opportunities for project management skills transfer to Target Groups throughout the life-cycle of Project

b) In respect of project management capacity and capability during the procurement phase, specifically the Bidder should provide the following information in its RFP Bid:

- i) clearly identify who the Bidder's project manager/ bid manager will be and the proposed approach towards interaction with the Project Officer;
 - ii) the finalisation of the Bidder's due diligence programme, detailing all information which the Bidder would still require in order to complete its due diligence of the Project;
 - iii) state the structure of the Bidder's negotiation team and identify the lead negotiator as well as provide the names and designations of all members of its negotiation team. The Bidder should note that the Department expects that the Lenders will form part of the Bidder's negotiation team from the inception of the negotiation process;
 - iv) state how members of the Target Groups have been involved in the preparation of the RFP Bid, and will be involved in the negotiation process up until Financial Close.
- c) In respect of project management capacity and capability during the Development Period, specifically:
- The Bidder is referred to Annexure B (*Technical requirements*) to this RFP for the information required in its RFP Bid relating to the project management requirements for the design, construction, Relocation and Service Commencement stages of the Project, as well as the PPP Agreement and should indicate the project management arrangements which they will institute during this phase.
- d) In respect of project management capacity and capability during the Service Period, specifically:
- The Bidder is referred to Annexure B (*Technical requirements*) to this RFP for the information required in its RFP Bid relating to the operations and maintenance requirements of the Project, as well as the PPP Agreement, and should indicate the project management arrangements which they will institute during this phase) In respect of project management capacity and capability during the exit phase, specifically:
- The Bidder should indicate in its RFP Bid who will accept responsibility to lead the Private Party to bring the Project to an end at the expiry of the PPP Agreement or termination thereof.

Annexure B: Technical requirements

This annexure sets out the information that the Bidder is required to provide with regard to its proposed technical solutions. In respect of the crèche, gym, ATM and cafeteria it is envisaged that the Bidder will provide these ancillary services and the staffing requirement on a commercial basis as outlined in the Output Specifications.

This annexure should be read in conjunction with Schedule 6 (*Output Specifications*), Schedule 7 (*Performance Standards*) and Schedule 8 (*Payment Mechanism*) to the PPP Agreement. The concept of a “Unit” (as defined in the Payment Mechanism) is central to an understanding of the linkage between the Output Specifications, the Performance Standards and the Payment Mechanism.

The Output Specifications details the Department’s specifications in respect of both the Works and each of the Services. Schedule 6 (*Output Specifications*) consists of the following:

- a) in respect of the working environment, the general Output Specifications and data sheets relating to each Unit number (there may be one or more data sheets in respect of each Unit, for example, S1.1 details the requirements for the Minister’s suite within the VIP suites) as per Table 7 below; the general Output Specifications are pertinent to one or more of the Units, for example the mechanical and air-conditioning Output Specifications which applies to Units 1 to 9; and
- b) in respect of the Services to be provided in relation to the working environment, the Services specification data sheets as per Table 8 below.

Table 7 – List of Output Specifications working environment data sheets

Area	Unit number	Output Specifications data sheet number
VIP suites	1	S 1
Cellular and open plan offices	2	S 2
Meeting space	3	S 3
Support areas	4	S 4
Main entrance (internal), circulation and atrium areas	5	S 5

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Guest Houses	6	S 6
Conference facilities	7	S 7
Foreign Service Institute (FSI)	8	S 8
Private Party restricted areas	9	S 9
Landscaped areas	10	L 1.1
Parking areas, roads and walkways	11	L 1.2
Vehicular entrance	12	L 1.3

Table 8 – List of Output Specifications Services specification data sheets

Services	Output Specifications Services specification data sheet number
Facilities monitoring systems and facilities management	FM 1.1
Facilities management help desk	FM 1.2
General office cleaning, carpet cleaning, pest control, office plants and external cleaning	FM 1.3
Building maintenance, Facilities Assets maintenance and energy and utility supply management	FM 1.4
Fleet and transport services	FM 1.5
Space planning and move management	FM 1.6
Gardening and landscaping services	FM 1.7
Third party services	FM 2.1
Catering and cafeteria services	FM 2.2

For each of the Output Specifications where performance is measured Schedule 7 (*Performance Standards*) to the PPP Agreement sets out the required Performance Standard. In this regard, the Bidder should note that the Performance Standards specify both availability standards and performance standards (both as defined in the Schedule 7 (*Performance Standards*)). In general, a Unit will be regarded as being “unavailable” if certain minimum Performance Standards are not met within that Unit, for example, if there is no electricity

available within that Unit. The Bidder should note that the reference to Performance Standards is to Schedule 7 (*Performance Standards*), whilst the reference to Performance Standards is to those respective standards within said schedule.

Where the Performance Standards are not met, Schedule 8 (*Payment Mechanism*) details, *inter alia*, the method of calculating the amount of the deduction from the Unitary Payment, in respect of both the Monthly Availability Deduction and the Monthly Performance Deduction (both as defined in the PPP Agreement).

The information required to be provided by the Bidder in its technical response to the RFP Bid is detailed in the paragraphs which follow, paragraph 1 provides the detail required for the Development Period of the Project, paragraph 2 provides the detail required for the Service Period of the Project, paragraph 3 provides the detail required in respect of the quality management system and paragraph 4 provides the detail required in respect of the environmental management response.

1 Construction (in respect of the Works)

In respect of the Works, the Bidder shall provide in its technical response documents a demonstration of how the Bidder will comply with the Output Specifications and Performance Standards. The Bidder is required to provide a clear statement of compliance with the Output Specifications, or in the event that certain Output Specifications have not been met, such statement should provide reasons for the non-compliance in respect of those Output Specifications.

As detailed in paragraph 4.2.4 of this RFP, the Department has provided an indication of the anticipated staff growth, the Bidder is expected to detail in its RFP Bid how it intends to meet the Output Specifications in respect of both the initial space requirement and how the Bidder intends to provide for the additional space requirement to cater for such staff in its design growth.

1.1 Architectural and sustainability (refer Output Specifications Part I)

The architectural brief for the RFP is to demonstrate full compliance with the detail requirements of the architectural output general design, space, security, electrical, mechanical, air-conditioning, access and fire, ICT, building monitoring and data and communication specifications and operations, as well as demonstrating the detail required for compliance with the architectural character as identified in the design objectives and working environment as detailed in the Output Specifications. The document should be sufficient to

demonstrate that all requirements in the RFP are integrated into an overall design concept, to the level of workstage 3 of the standard client/ architects agreement as compiled by the South African Institute of Architects, illustrating the following:

- a) appropriate response to the urban design guidelines and urban context;
- b) demonstrate design objectives reached;
- c) integration of environmental and sustainability design objectives and principles into the architectural design concept;
- d) integration of working environment and space concepts;
- e) integration of the Services and incorporation into the design concepts;
- f) demonstrate innovation in office working environment and incorporation of the latest concept in office design and interactive office environments; and
- g) essential components making up the life cycle of the service.

The architectural brief for the Guest Houses, FSI and conference facility is to demonstrate full compliance with the detail requirements of the guest houses, FSI and conferencing Output Specifications, as well as demonstrating the detail required for compliance with the guest houses, training and conferencing character as identified in the Guest Houses, FSI and conferencing objectives and working environment in the Output Specifications. Although the above are different in functional usage, the Bidder should show how the above may be integrated into the Facilities yet be allowed to operate separately. It is not intended that the buildings need be separate unless required by the Bidder's design team.

Three separate sections are required in the overall submission for each of the Guest Houses, the FSI and the conferencing facility that:

- a) demonstrates appropriate response to the Guest Houses, FSI and conferencing guidelines and context;
- b) demonstrates the Guest Houses, FSI and conferencing objectives have been reached;
- c) demonstrates integration of environmental and sustainability design objectives and principles into the design concept;
- d) demonstrates integration of a flexible environment with space concepts;
- e) demonstrates integration of services and structure into design concept;
- f) demonstrates innovation in the conferencing, training and hospitality environments and incorporation of the appropriate concept in conferencing and training environments; and
- g) demonstrates essential components making up the life cycle of the service.

1.2 Documentation and format

The documentation should consist of plans and reports with diagrams, drawings, perspectives and model, sufficient to demonstrate compliance with the brief. The format of the documentation which should be provided is detailed in the following sections.

1.2.1 Plans

1.2.1.1 General

One plan book documents showing the following areas of the Facilities:

- a) accommodation;
- b) Guest Houses;
- c) conference facility; and
- d) Foreign Service Institute.

1.2.1.2 Plan book details

- a) All plans should be minimum 1:200 scale.
- b) All plans should be maximum A1 and minimum A3 size (reduced) (landscape or portrait), maximum 20 (twenty) sheets. The Bidder should determine the number of sheets required for each area of the development as it is not anticipated they will require equal weighting.
- c) Only the following drawings should be provided:
 - i) colour or black and white;
 - ii) all major elevations;
 - iii) all major sections;
 - iv) all floor plans, basement plans and mezzanine levels;
 - v) site plan minimum 1: 500 scale and urban context plan minimum 1: 2000;
 - vi) roof plan;
 - vii) landscape master plan indicating all tree types and landscaping approach; and
 - viii) two perspectives in colour or black and white.
- d) One colour or monochrome model, 1:200 scale maximum. Models should be covered with perspex and must be robust enough to be transported safely.

1.2.2 Architectural service specification (design report)

One architectural service specification report in maximum A3 size, landscape or portrait and a maximum of 100 (one hundred) pages, including sketches but excluding bibliography, table of contents, cover page and annexures, should be provided for the four identified areas of the Facilities.

The report should show how the Bidder has addressed the four identified areas of the Facilities:

- a) approach and understanding of the brief;
- b) overall concept;
- c) accommodation, Guest House, FSI and conferencing response:
 - A. urban design response
 - B. environmental design
 - C. accommodation schedule
 - D. space and zoning
 - E. security zoning
 - F. sustainability
- d) environmental design integration;
- e) Services integration;
- f) structural concept;
- g) unique design features;
- h) innovative space planning hospitality, training and conferencing options; and
- i) public access and interaction.

1.3 Technical service specifications

A technical service (i.e. building services, being electrical, water etc.) specification report in maximum A3 size, landscape or portrait including sketches should be provided. The service specification report should cover the following areas:

- a) accommodation and related services;
- b) FSI technical service specification;
- c) conference facility technical service specification;
- d) Guest House technical service specification

Separate reports can be produced per area, if required, but is not prescribed. The report/s should show how the Bidder intends to comply with the detailed requirements as set out in the various sections of the Output Specifications, *inter alia*, general design, space, security, electrical, mechanical, air-conditioning, access and fire, ICT, building monitoring and data and communication specifications and operations as well as demonstrating the detail required for compliance with the architectural character as identified in the design objectives and working environment Output Specifications. The document should be sufficient to demonstrate that all requirements in the RFP are integrated into an overall design concept.

The following areas are to be specifically addressed:

- 1) security (Including specifications of systems, criteria, evacuation, CCTV and other items as detailed in the Output Specifications)
- 2) site service specifications
 - a) landscaping and open spaces;
 - b) parking, entrances, public transport and follow and movement of traffic;
 - c) Services requirements and design; and
 - d) disability access.
- 3) electrical, HVAC and fire detection
 - a) electrical;
 - b) mechanical including plant rooms, lifts etc;
 - c) heating, ventilation and air-conditioning; and
 - d) fire detection systems.
- 4) ICT
 - a) infrastructure
 - b) PABX, telephony and call centre
 - c) cabling
 - d) audio-visual
 - e) photocopying; and
 - f) a broad plan demonstrating integration with the Department's strategic plan.

1.4 Mock-up

An area of at least 5 x 6 m will be provided for the Bidder to provide a mock-up of typical open plan workstation and a typical cellular office. This mock-up must be complete with finishes, furnishing, and lighting. The rest of the RFP Bid including all documentation, models and plans must be provided within this room. Security and confidentiality will be provided by the Department. The key to this area will be handed over to the Department on the Close Date, and a document to confirm receipt will be provided to the Bidder.

1.5 Construction programme

The construction brief for the RFP is to demonstrate compliance with the Department's requirement to be able to occupy the accommodation by the end of **the end of December 2006 or as soon as possible thereafter** in accordance with paragraph 4.2.4 of the RFP. The document should be in sufficient detail to demonstrate that all requirements in the RFP are integrated into an overall construction programme.

The Bidder should provide:

- a) a detailed construction programme including to the extent that the Bidder wishes to undertake a construction approach in Phases, completion of Schedule 13 (*Phases*) and Schedule 22 (*Scheduled Service Commencement Dates*) of the PPP Agreement²⁶;
- b) the details in respect of the first Phase, as required in terms of Schedule 28 (*Minimum Services*) of the PPP Agreement;
- c) the Bidder is to clearly indicate in its construction programme the dates that it requires site handover in respect of both the Soutpansberg Site and the Waterkloof Site; and
- d) a procedure to ensure that the building design is approved by the Operations Subcontractor.

1.5.1 Contents of the construction programme

The Bidder is to describe in detail the construction programme that they propose to follow in the construction of the Project. The Bidder must provide at least the following information for its Compliant Bid. In respect of each Variant Bid (if any) submitted the Bidder should have regard to the requirements as set out in paragraph 5.2 of this RFP.

- a) overview of design, construction and transitional arrangements (including, *inter alia*, commissioning and Relocation) programme, in the preparation of the transitional arrangements the Bidder must have due regard to the provisions of clauses 19 (*Preparation for operation*), 20 (*Completion certificates*) and 21 (*Relocation and Service Commencement*) of the PPP Agreement;
- b) including, but not limited to:
 - i) design and approvals process;
 - ii) environmental Management Plan considerations
 - iii) security on site
 - iv) proposed earthworks
 - v) structures
 - vi) Services
 - vii) finishing
 - viii) landscaping
 - ix) parking and access
 - x) security, including an outline of the security requirements;
 - xi) mechanical, electrical;
 - xii) environmental management plan;

²⁶ This section should provide input on the Department requirements if a phased approach is adopted.

- xiii) traffic accommodation; and
- xiv) occupational health and safety plan.

Details should be provided per grouping of buildings with a separate programme for the conference facility, FSI and Guest Houses.

1.5.2 Construction of the Works and Project management of the Works

The Bidder should also include details of the management structure anticipated for the Works.

This should include at least the following:

- a) details of how construction management will be handled on each Project Site;
- b) details of how the construction of the Project will be Project managed;
- c) details of the quality management system to be implemented (refer to paragraph 3 of this annexure); and
- d) a proposal as to how it intends meet the requirements of SAHRA in respect of the archaeologist's "watching brief" (refer to paragraph 4.8.7 of this RFP), in this respect the Bidder is to have regard to the requirements of SAHRA in terms of the correspondence in the Data Room.

1.5.3 Format and contents of the construction programme

The construction programme should be prepared in MS Project format, version 98 or later, and must be submitted both in hard copy and soft copy. The construction programme must be prepared using **September 2006** as the start date. During the Development Period the construction programme must be prepared on a monthly basis, including variance reporting.

1.6 Job creation during the Development Period

The Bidder is required to give an indication its plan and strategy to provide jobs during the Development Period of the Project and should provide information on the estimated number of jobs to be created using Table 9 (*Guideline for providing information regarding jobs created during construction*) below as a guideline.

Table 9 – Guideline for providing information regarding jobs created during construction

Category	Sub category	Description	No of jobs that will be created	Duration of Jobs	Person days employment
Professional	Architects, engineers, QS,				
Construction	Managerial				
	Artisans				

	Semi skilled and Labour				
SMME	Define Categories				

The Bidder is reminded of the importance of creating opportunities for Target Groups through this Project and should indicate in its plan a strategy to provide jobs during the Development Period to Target Groups. The plan relating to job creation during the Development Period should furthermore include details on:

- a) job opportunities for people from within Tshwane;
- b) direct and indirect job opportunities. Direct jobs refer to jobs created within the D&C Subcontractor. Indirect jobs refer to the jobs that will be created by the Sub-subcontractors; and
- c) permanent and temporary job opportunities.

The Bidder will be expected to provide report to the Department during the Development Period, in accordance with clause 45 (*Subcontractor's Black Equity requirements*) of the PPP Agreement and Schedule 17 (*Target Equity Terms*) to the PPP Agreement, to detail the actual number of jobs created during the Development Period, i.e. a plan, providing sufficient detail on all the above focus areas.

The Bidder should provide an indication of the estimated Rand amounts to reflect the anticipated values of the various Sub-subcontracts, e.g. bricklaying contract.

1.7 Staff training

The Bidder should propose appropriate training programmes during construction.

1.8 Relocation plan

The transitional arrangements brief for the RFP is to demonstrate compliance with the Department desired occupation date by the **end of December 2006, or as close thereto**, having regard to any anticipated construction programme to be completed in Phases.

The Relocation plan, prepared in accordance with Schedule 16 (*Relocation principles*) to the PPP Agreement, must include each of the Department's existing office buildings, the FSI and the existing Guest House. In addition, the Relocation plan must include details of the move of the Department's movable assets located at the Department's existing office buildings, the FSI or the existing Guest House into storage facilities located within Gauteng.

The Bidder should provide a framework of its anticipated Relocation plan.

1.9 Cost matrix

The cost matrix for the RFP is to provide a breakdown of the construction cost areas and facilities and the refurbishment and rehabilitation programme envisaged by the contractor using January 2005 as the base year. The Bidder should provide the following:

- a) Total value during construction per item
- b) Replacement horizon year and extent of replacement

The following headings should be the minimum to be included in the cost matrix, the Bidder is not limited should it wish to add further items:

- a) Project development fees, professional fees, management and general.
- b) accommodation construction:
 - i) earthworks, basements and archives;
 - ii) structures;
 - iii) finishes
 - iv) wet services
 - v) roads and parking (internal).
- c) electrical and mechanical:
 - i) electrical;
 - ii) security;
 - iii) access;
 - iv) electronic;
 - v) lighting;
 - vi) heating, ventilation and air-conditioning;
 - vii) lifts;
 - viii) fire detection;
 - ix) bulk printing;
 - x) special services; and
 - xi) other.
- d) site development (in this regard the Bidder should note the requirement in terms of 4.8.4 of the RFP)
 - i) landscaping;
 - ii) finishing;
 - iii) service requirements and utility and local authority;
 - iv) traffic and parking requirements;

- v) service requirements; and
- vi) bulk services contributions (including upgrades to existing road infrastructure).
- e) ICT:
 - i) ICT;
 - ii) PABX and telephone system;
 - iii) photocopiers;
 - iv) audio-visual.
- f) Facilities Assets:
 - i) furniture;
 - ii) fittings; and
 - iii) equipment.
- g) Relocation
- h) Foreign Service Institute:
 - i) Categories as required from above
- i) conferencing:
 - i) Categories as required from above
- j) Guest Houses:
 - i) Categories as required from above

2 Operations

The operations brief for the RFP is to demonstrate full compliance with the detail requirements contained in the Output Specifications relating to the Services, as well as demonstrating the detail required for integration with the architectural and sustainability character as identified in the technical and architectural sections above. The document should be sufficient to demonstrate that all requirements in the RFP are integrated into an overall operations concept, illustrating the following:

- a) operational response to the urban design guidelines and urban context;
- b) demonstrate design objectives reached in operations of accommodation;
- c) integration of environmental and sustainability design objectives and principles into the operations concept;
- d) integration of operations into the working environment and space concepts
- e) integration of Services and structure into operations concept; and
- f) demonstrate innovation in operations and incorporation of the appropriate concepts in office design and interactive office environments.

The Guest Houses, FSI and conferencing brief for the operations is to demonstrate operational compliance with the relevant requirements of the Guest Houses, FSI and

conferencing. Output Specifications, as well as demonstrating the detail required for compliance with the hospitality, training and conferencing character as identified in the Guest Houses, FSI and conferencing objectives and working environment in the Output Specifications. The following elements should be evident from the response:

- a) demonstrate Guest Houses, FSI and conferencing operationally;
- b) integration of flexibility, conferencing environment and space concepts into operational concepts; and
- c) integration of services and structure into operational concept.

The Bidder is required to detail in its RFP Bid any specific linkages required between the ICT Output Specifications (included in Schedule 3 (*Information Technology Infrastructure*)) and the security specifications (included in Schedule 6 (*Output Specifications*)).

2.1 Documentation and format

Documentation should consist of plans and reports with diagrams, sufficient to demonstrate compliance with the brief. The following documentation should be provided.

2.2 Operations report

Report in maximum A3 size, landscape or portrait and a maximum of 50 (fifty) pages, including sketches but excluding bibliography, content, cover page and annexures. The report should address the following items:

- a) approach and understanding of the brief;
- b) overall concept for hard and soft services, including staff training requirements and job creation per 2.2.1 and 2.2.2, respectively, below;
- c) site response;
- d) environmental design integration;
- e) Services integration;
- f) unique operational and services features; and
- g) innovative operations options.

2.2.1 Staffing and Staff Training

The Bidder should take into consideration the information provided in the RFP paragraph 6 which will guide the Bidder's proposals on the staffing requirement and the appropriate training to be provided. Where an interface between the Department and the Private Party is foreseen, the Bidder is required to include a proposal on operational principles to be adhered to ensure the proper integration and optimal functioning of all Services.

2.2.1.1 Staffing

The Bidder should provide staffing details for those Services as contemplated in terms of 6.1 for which the Private Party will provide the employees and the Private Party will provide the space, equipment, systems and software, including the following:

- a) number of staff per Service area required, based on the Output Specifications (at both a management and operations level); and
- b) the staff profile, indicating the qualifications, training and experience required.

The Bidder should provide staffing details for those Services as contemplated in terms of 6.2 for which the Department will provide the employees, but the Private Party will provide the space, equipment, systems and software, including the following:

- a) the staff profile, indicating the qualifications, training and experience required.

2.2.1.2 Staff Training

The Bidder will be expected to provide the following information on staff training:

- a) proposed employee training programmes for both the Department and the Private Party to stand in support of the Output Specifications being met, it is expected that the Bidder should indicate the number of trainees per course, type and level of training to be provided, the training service providers, the first date and the frequency of training (including training upgrades), the certification and accreditation of training courses and trainees;
- b) details on the Bidder's approach towards an orientation programme for the Department's employees and the Private Party's employees on the new working environment, as well as on the Relocation to the new Facilities; and
- c) a proposed approach towards the preparation of relevant training manuals for the Department employees.

2.2.2 Job creation during the Service Period

The Bidder is required to provide an indication of the jobs created during the Service Period of the Project, per service delivery area, using the table below as a guideline. The Bidder shall provide information relating to both direct and indirect jobs which it anticipates to be created, with direct jobs referring to jobs created within the Operations Subcontract and indirect jobs referring to jobs that will be created by Sub-subcontractors.

Table 10 (*Guideline for providing information regarding jobs created during operations*) below can be used as a guideline for the presentation of the information and the Bidder is referred to paragraph 6 and the Output Specifications for further information on the Services

listed below.

Table 10 - Guideline for providing information regarding jobs created during operations

Job Creation In Services		
Job Description	Number of existing employees within the Bidder, the D&C Subcontractor and the Operations Subcontractor who will be deployed on the Project	Number of new employees anticipated to be recruited for the Project
Services to be fully provided by the Private Party		
Management of the operations		
Help desk		
Cleaning		
Pest control		
Office plants		
Fleet management		
Garden services and landscaping		
Management of the Facilities Assets		
Management of the energy and utilities supply		
Waste management		
Move management		
Services where there is a shared responsibility between the Department and the Private Party		
Security		
Mail		
Reprographic services;		
Events management relating to i.e.		

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Conferencing area		
Planning and organisation of training		
Parking management		
Telephone equipment		
Guest House management		
ICT		

The Bidder is also reminded of the requirements for job creation for the Target Groups during the Service Period of the Project, as shown in Annexure D (*Target Group requirements*) and needs to clearly indicate its planned job creation for such Target Groups in its RFP Bid.

2.3 Annexures

The following technical annexures must be provided, maximum A3 sheets and maximum of 50 (fifty) pages for each annexure:

- A. Operations, administrative and building management services
- B. Soft services
- C. Hard services
- D. Commercial opportunities, i.e. gym, crèche etc.
- E. Preventative maintenance and refurbishment programmes
- F. Events co-ordination
- G. Emergency planning

Each of the annexures to the operations report are to demonstrate the Bidder's ability to meet the Department's operational requirements in a comprehensive, integrated operations service provision as set out in the Output Specifications. In addition, the Bidder will be expected to clearly demonstrate how it intends to meet the Performance Standards.

The Bidder should have particular regard to demonstrating the procedures and processes, including systems and software, it intends to implement in providing the Services, the Bidder should indicate, *inter alia* the following:

- i) management principles that it intends to implement;
- ii) details of the Bidder's approach towards implementation of the Services;
- iii) management structure, including an organogram and resumes of key personnel;
- iv) management of Facilities Assets;
- v) staffing requirements for delivering the Services; and
- vi) details of operational delivery.

Where the Bidder intends to enter into Sub-subcontracts with third party service providers to deliver the Services, the Bidder should indicate, *inter alia*, the following:

- i) methodology and approach the Bidder intends to use in entering into the Sub-subcontracts with such third party service providers, including, for example, the tender evaluation criteria;
- ii) the Bidder's operational processes and procedures to ensure an integrated and optimal functioning of the Services, including, for example how it intends to manage the staffing provided by third parties; and
- iii) number of staff required to deliver the Services as set out in the Output Specifications.

In terms of clause 37 (*Small works variations*) of the PPP Agreement, the Bidder should note the requirement to stipulate in its RFP Bid the mark-up on the cost of Small Works (as defined in the PPP Agreement).

2.4 Contents of refurbishment programme

After the construction and development period an overall operations programme and the refurbishment programme must be prepared. The operations programme should provide annual summaries for the Service Period. All assumptions made in preparing the operations programme must be described in detail in a write-up. The Bidder must provide a thorough and detailed explanation of its refurbishment programme. The initial year programme and the full refurbishment programme should be supplied.

The refurbishment programme should indicate anticipated dates for all refurbishments considered during the Service Period.

2.5 Operations and refurbishment cost matrix

The cost matrix for the RFP is to provide a breakdown of the cost of the Services and the refurbishment and rehabilitation programme envisaged by the Operations Subcontractor using January 2005 as the base year. The Bidder should provide the following:

- a) annual anticipated costs;
- b) replacement horizon year and extent of replacement;

The following headings should be the minimum to be included in the cost matrix, but the Bidder is not limited should it wish to add further items:

- a) management of the Services and, in general;

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- i) administration management;
 - ii) building monitoring systems;
 - iii) general operations management;
 - iv) signage and support services;
 - v) move management and space planning; and
 - vi) legal compliance.
- b) refurbishment
- Refurbishment of any items necessary:
- i) electrical;
 - ii) security;
 - iii) access;
 - iv) electronic;
 - v) lighting;
 - vi) heating, ventilation and air-conditioning;
 - vii) lifts;
 - viii) fire detection;
 - ix) bulk printing;
 - x) special services; and
 - xi) other.
- c) soft services:
- i) help desk;
 - ii) cleaning and hygiene including carpet cleaning, pest control, waste management;
 - iii) garden services and landscaping;
 - iv) drivers, mail and messenger services; and
 - v) bulk printing.
- d) hard services:
- i) building maintenance;
 - ii) refurbishment;
 - iii) furniture;
 - iv) air-conditioning;
 - v) fleet management; and
 - vi) utilities management.
- e) ICT:
- i) ICT;
 - ii) PABX and telephone system;
 - iii) photocopiers; and
 - iv) audio-visual.

- f) Foreign Service institute
 - i) categories as required.
- g) conferencing
 - i) categories as required.
- h) Guest Houses
 - i) categories as required.

3 Quality management system

Whereas it is not a requirement for either the D&C Subcontractor or the Operations Subcontractor, at the time of the RFP Bid submission, to be ISO-accredited, the Bidder is required to include in its RFP Bid its **proposed** Quality Management System ("QMS"). This QMS should include the setting up of the system, the compliance reporting and the application thereof to the D&C Subcontractor, the Operations Subcontractor and their envisaged Sub-subcontractors during both the Development Phase and Service Period of the PPP. Such QMS proposal must be prepared in accordance with the latest versions of ISO9000 and ISO14000.

The **actual** QMS for the Development Period, is to be submitted by the Private Party to the Department prior to the commencement of construction. In addition thereto, the Private Party shall provide quarterly compliance reports, during the Development Period, demonstrating its compliance with the said QMS.

For the Service Period, the Private Party shall be required to achieve ISO-accreditation within 4 years of the Final Service Commencement Date (as defined in the PPP Agreement). The Private Party will be required to maintain its ISO-accreditation for the balance of the Project Term. Prior to the commencement of operations the Private Party shall be required to submit an implementation plan of how it intends to achieve ISO-accreditation within the 4 year period. Until the Private Party achieves ISO-accreditation, it shall provide quarterly compliance reports demonstrating its compliance with the said ISO-standards.

4 Environmental requirements

The Bidder is required to provide a **comprehensive** response to the following Environmental Requirements

- a) An *environmental policy*: including indication of commitment to comply with relevant environmental legislation, policies, guidelines and standards, commitment to continuous improvement of environmental management and definition of roles, responsibilities for

implementing the environmental policy.

b) Environmental goals, objectives and targets that support the policy: including a programme for achieving objectives.

c) Identified environmental aspects and significant impacts: describing how environmental impacts will be dealt with during the design, construction and operation of the Project.

d) Identification of legal and other requirements, which will include all requirements and stipulations of both DEAT and GDACE.

e) Training, awareness procedures: indicate training that will be provided to personnel whose work might create a significant impact upon the environment, including a description of steps to be taken to make personnel aware of the importance of conformance with the environmental policy.

f) Procedures for monitoring and measuring the impact of activities that can have a significant impact on the environment, specifically focussing on periodically evaluating compliance with legislation.

g) A program for environmental auditing and corrective action: including the audit scope, frequency, methods, responsibilities and requirements for conducting audits and reporting results.

Annexure C: Legal requirements

1.1 Mark-up of Contractual Documentation

As part of the RFP Bid, the Bidder must comprehensively mark-up all contractual documentation supplied with the RFP, including the PPP Agreement, all the schedules thereto (“the Contractual Documentation”) to reflect all the deletions and insertions required to support its RFP Bid. The Department will not consider any further matters pertaining to the Contractual Documentation which are not clearly marked in the Contractual Documentation after submission in support of the Bidder’s RFP Bid.

All Contractual Documentation should be marked-up and presented electronically in MS Word format, version 98 or later.

Word processor changes should be in the following format:

- Deletion – strike through and tracked;
- Insertions – underlined, in bold and tracked;
- Comments/ Reasons – footnote, to be inserted immediately after the proposed change, and inserted as for an “Insertion” (i.e. underlined, in bold and tracked).

To the extent that the changes are not reflected by way of track changes function in MS Word, a clean, unmarked, version of all documentation including all changes is to be provided in which the amendments are made without the formatting requested above, save that comments/reasons for the amendments are to be inserted as footnotes.

Where a Bidder wishes to amend a clause or insert a new clause, full drafting should be provided. The Bidder should note that comments such as “agreed in principle” or “subject to further discussion” will be assumed to indicate disagreement with the clause and as such will attract lower marks in the evaluation process.

The Bidder is not allowed to renumber the PPP Agreement or any of its schedules. If a Bidder wishes to delete a clause, a schedule or a paragraph of a schedule, the relevant clause, schedule or paragraph must remain in its allotted position with the words “NOT USED” inserted.

To the extent that a Bidder wishes to insert an additional clause, schedule or paragraph within the body of the PPP Agreement or its schedules, the inserted clause, schedule or paragraph is

to be identified by reference to the immediately preceding clause, schedule or paragraph number and the words "*bis*", "*ter*", "*quat*" etc. inserted thereafter. Any item of the Contractual Documentation not marked up shall be deemed accepted by the Bidder.

As part of the Bidder's mark-up, any issues requiring further development within the Transaction Documents or implications for the Financial Model must be clearly identified (for example: any restructuring of the Project to accommodate any tax issues arising from the Bidder's proposal, any land issues, any issues related to the provision of the Services etc.) and the implications for the Department (or any other organ of state) to be clearly identified.

Items reflected in [square brackets] in the RFP and its Contractual Documentation, require the Bidder to state its preferred position on such matter. Should no amendment be made to the item reflected in [square brackets], such items shall be deemed accepted by the Bidder, or where no figure is provided where same is requested, a figure of 0 (zero) shall be implied.

In addition to the marked changes in the Contractual Documentation, each mark-up is to be motivated by way of a consecutively numbered footnote to the change.

1.2 Nature of the Bidder

The Bidder must provide written confirmation that there have been no changes to its consortium in respect of the members thereof, their respective equity holdings since submission of the RFQ Bid, or the identity of the Committed Subcontractors, save to the extent requested or consented to by the Department.

The Department shall only contract with a SPV, with its registered and principal place of business in the Republic of South Africa, registered as a South African taxpayer, and meeting the Target Group requirements stipulated in paragraph 4.11.

1.3 Contractual matters

- a) The Bidder is required to provide a full mark-up of the Contractual Documentation to indicate all the amendments which the Bidder wishes the Department to consider in accordance with paragraph 1.1 of this annexure.
- b) Insofar as any amendment to the Contractual Documentation constitutes a drafting change without substantive change in principle, the Bidder is required to indicate same, and in so doing accepts the Legal Advisor's determination as to whether the drafting change is required. The Bidder must note that all required drafting changes are required to be marked-up in accordance with paragraph 1.1 of this annexure, and that drafting changes requested after appointment of the Preferred Bidder may be ignored by the Department in its sole discretion.
- c) It is contemplated that the Bidder shall not undertake the construction of the Facilities and the Services itself, but shall subcontract same. Accordingly, draft heads of terms of the subcontracts to be entered into with each of the D&C Subcontractor and the Operations Subcontractor must be submitted as part of the RFP Bid. The heads of terms should include all material terms including in particular, any limitations on liability, indemnities/warranties and termination provisions, as well as any items of risk in respect of any aspect of either the construction of the Facilities or the Services that are not proposed to be transferred to the respective Committed Subcontractors.
- d) A signed copy of the shareholders agreement either entered into between the Bidder and the Equity Members shall be required to be submitted within 15 Business Days prior to the anticipated date of signature of the PPP Agreement, such shareholders agreement to be consistent with the terms of the consortium agreement submitted by the Preferred Bidder as part of its RFQ Bid.
- e) Copies of all resolutions, undertakings, confirmations or authorisations required to be provided by the Bidder as part of the RFP Bid.

1.4 Assumptions in the preparation of the RFP documentation:

- a) The Private Party under the PPP Agreement shall be an SPV.
- b) Project financing is required by the Bidder to fund the undertaking of the construction of the Facilities, the provision of the Facilities Assets and the provision of the Services.

- c) There shall be two principal subcontracts entered into, one with the D&C Subcontractor and the other with the Operations Subcontractor.
- d) The Services shall commence upon the first Phase of the Facilities being completed to the extent a construction approach in Phases is adopted.
- e) Save to the extent contemplated under paragraph 5 of the RFP none of the above are necessary requirements of the RFP.

1.5 Sign off on competition, NIPP and any other statutory requirements

1.5.1 Competition Act, 1998

The Bidder must satisfy itself that the Project or any aspect of it is not a notifiable transaction as contemplated under the Competition Act, 1998, and to the extent that it is a notifiable transaction, that it has satisfied itself that all necessary requirements to comply with the provisions of the Competition Act, 1998 have been complied with or shall be complied with prior to Financial Close.

1.5.2 National Industrial Participation Programme ("NIPP")

- a) The Bidder's attention is drawn to form SBD 5 issued together with this RFP, as set out in Annexure M (*Standard bidding documents*), containing details of the NIPP. Further details of the NIPP can be obtained on the Department of Trade and Industry's ("DTI") website, being: www.dti.gov.za.
- b) In the event that a Bidder falls within the import level stated in SBD 5, the Bidder shall ensure that by the time of submission of the RFP Bid it has made appropriate arrangements with the DTI to satisfy the NIPP requirement and its RFP Bid must be accompanied by the SBD 5 form duly completed and signed by the DTI to signify compliance with the NIPP requirements.
- c) The Department shall not accept any responsibility and/or risk arising from any compliance or non compliance (as the case may be) with the NIPP.
- d) The requirements in relation to the NIPP constitute a separate obligation to those contained in the remainder of this RFP.

1.6 Security requirements

A final maintenance bond may be required to be provided by an institution (being satisfactory to the Department) in respect of the outstanding maintenance required to be undertaken 6 months prior to expiry of the PPP Agreement. The form of the final maintenance bond is set out in Schedule 14 (*Final Maintenance Bond*) to the PPP Agreement.

1.7 Liquidated damages

It is contemplated under the Payment Mechanism, that liquidated damages may be imposed against the Private Party in respect of non-performance of the Services, as well as a failure to comply with the Target Group requirements set out in paragraph 4.11, any proposed amendments thereto are to be marked up against Schedule 8 (*Payment Mechanism*) and Schedule 17 (*Target Group Terms*) in accordance with paragraph 1.1 of this annexure.

1.8 Authorisation of the Department

The Private Party, its Lenders and its advisors are required to satisfy themselves as to the authority of the Department to enter into the PPP Agreement and other agreements incidental thereto, as the Department shall not procure a legal opinion in favour of the Bidder or its Lenders. In this regard, the Preferred Bidder shall receive copies of the approvals issued by National Treasury pursuant to the regulations under the PFMA. It is further advised that the Director-General of the Department, Dr Ayanda Ntsaluba, shall sign the PPP Agreement, and the Minister of Finance shall sign the letter set out in Schedule 25 (*Minister of Finance Consent*) to the PPP Agreement.

Annexure D: Target Group requirements

1.1 Requirements in respect of Target Groups

In respect of Target Groups, the Bidder is to provide the following information in its Target Group response of the RFP Bid:

- a) the Bidder’s response to the Balanced Scorecard, providing all supporting information²⁷;
- b) a mark-up of clauses 43 (*Black Equity in the Private Party*) to 46 (*Requirements for Women and Disabled Persons*) (inclusive) of the PPP Agreement, Schedule 8 (*Payment Mechanism*) (the Target Group-related sections of this schedule) and Schedule 17 (*Target Group Terms*) of the PPP Agreement;
- c) requirements in terms of Target Group funding; and
- d) provide input into the Financial Model in respect of the cost of the Target Group participation in the Project.

1.2 The Project Balanced Scorecard

Table 11 – Project Balanced Scorecard

Element (Column A)	Department’s Project Target (Column B)	Minimum threshold per Element (Column C)
A: Private Party Equity		
A1: Black Equity in the Private Party	40%	40%
A2:Active Black Equity in the Private Party	55% of A1	55% of A1 (actual Bidder’s commitment of Black Equity)
A3:Cost of Black Equity in the Private Party	Bidder to show Value-for-Money	DBSA Funding Offer: Cost of Black Equity
A3A: Timing of Black Equity returns in the Private	Early and ongoing	DBSA Funding Offer:

²⁷ The Department would expect the Bidder to include in its RFP Bid proposals to increase the empowerment targets during the Project Term, although this will not be evaluated.

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Element (Column A)	Department's Project Target (Column B)	Minimum threshold per Element (Column C)
Party	returns to be demonstrated and committed to	returns
A4: Women Equity in the Private Party	Refer to section E1	Refer to section E1
A4A: Black Women Equity in the Private Party	Refer to section E1A	Refer to section E1A
B: Private Party management & employment		
B1:Black Management Control in the Private Party	40%	40%
B2: Women in Management Control in the Private Party	Refer to section E2	Refer to section E2
B2A: Black Women in Management Control in the Private Party	Refer to section E2A	Refer to section E2A
B3: Employment equity by the Private Party	Strong plan, legally compliant	Strong plan, legally compliant
B4: Skills development by the Private Party	1,5% of payroll spent on the development of Target Groups (of which at least 1% of the payroll must be spent on Black employees)	1% of payroll
B5: Disabled Persons	Refer to F1	Refer to F1
C: Committed Subcontractor		

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Element (Column A)	Department's Project Target (Column B)	Minimum threshold per Element (Column C)
C1: Project capital expenditure cash flow to Black People and/ or Black Enterprises from the Private Party	40%	30%
C1A: Project capital expenditure cash flow to Women from the Private Party	Refer to E3	Refer to E3
C2: Project operational expenditure cash flow to Black People and/ or Black Enterprises from the Private Party	50%	40%
C2A: Project operational expenditure cash flow to Women from the Private Party	Refer to E4	Refer to E4
C3: Black Management Control in each Committed Subcontractor	25%	20%
C4: Women in Management Control in each Committed Subcontractor	Refer to E5	Refer to E5
C4A: Black Women in Management Control in each Committed Subcontractor	Refer to E5A	Refer to E5A
C5: Employment equity by each Committed Subcontractor	Strong plan, legally compliant	Strong plan, legally compliant
C6: Skills development by each Committed Subcontractor	1,5% of payroll spent on the development of Target Groups (of which at least 1% of the payroll must be spent on Black employees)	1% of payroll
C7: Procurement cash flow by Committed Subcontractor to Black SMMEs	40%	40%

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Element (Column A)	Department's Project Target (Column B)	Minimum threshold per Element (Column C)
C8: Disabled Persons	Refer to F2 and/ or F3	Refer to F2 and/ or F3
D: Local socio-economic impact	Sustainable, effective plan	1% of Unitary Payment and sustainable, effective plan
E: Women		
Women participation in the Private Party		
E1: Women Equity in the Private Party	10%	10%
E1A: Black Women Equity in the Private Party	60% of E1	60% of E1
E2: Women in Management Control in the Private Party	40% (determined in aggregate with E5)	30% (determined in aggregate with E5)
E2A: Black Women Management Control in the Private Party	60% of E2	60% of E2
Women participation in the Committed Subcontractors		
E3: Project capital expenditure cash flow to Women from the Private Party	20%	10%
E3A: Project capital expenditure cash flow to Black Women from the Private Party	60% of E3	60% of E3

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Element (Column A)	Department's Project Target (Column B)	Minimum threshold per Element (Column C)
E4: Project operational expenditure cash flow to Women from the Private Party	20%	10%
E4A: Project operational expenditure cash flow to Black Women from the Private Party	60% of E4	60% of E4
E5: Women Management Control in the Committed Subcontractor	40% (determined in aggregate with E2)	30% (determined in aggregate with E2)
E5A: Black Women Management Control in the Committed Subcontractor	60% of E5	60% of E5
F: Disabled Persons		
F1: Disabled Persons employment	5%	3%
F2: Disabled Persons capital expenditure cash flow to Disabled Persons from the Private Party	5%	3%
F3: Disabled Persons operational expenditure cash flow to Disabled Persons from the Private Party	5%	3%
		50% of the total possible Target Groups points

1.3 The Scoring methodology in relation to the Balanced Scorecard

The Balanced Scorecard for the Project is provided in Table 11 (*Project Balanced Scorecard*) above. The elements of the Balanced Scorecard are indicated in Column A.

In order to provide a transparent and objective means of scoring the Balanced Scorecard a MS Excel spreadsheet is provided with the RFP to enable the Bidder to perform a self assessment



of its Target Group score. The said spreadsheet contained on the compact disc handed to the Bidder with the RFP. Whilst the scoring methodology is largely an absolute scoring system, there are elements, such as the local economic development programmes, which the Bidder's responses will be evaluated relative to one another.

The Bidder's attention is specifically drawn to the RFP evaluation criteria requirement (per Table 6 above) to achieve at least 5 out of the 10 (50%) of the evaluation points allocated to Target Groups. Failure to achieve at least 50% of the total possible Target Groups points will result in the RFP Bid being excluded from further evaluation. As a result of the strict application of this requirement the evaluation process for Target Groups is detailed in this annexure.

The Balanced Scorecard provided in the RFQ (as amended by RFQ Briefing Note 1) has been modified by the addition of a minimum threshold to be achieved for each element (indicated in Column C) of the Balanced Scorecard. The minimum threshold indicates the level below which the Bidder will be given no points in relation to an element of the Balanced Scorecard.

The minimum thresholds are distinct from the Project targets for each element (indicated in Column B) in the Balanced Scorecard. The Project targets indicate the level which the Department seeks to achieve. The Bidder who meets the targets will score points for meeting the targets; whilst that Bidder which exceeds the targets will be given a higher score.

With the introduction of the minimum threshold the intention is not to dilute the targets in the Balanced Scorecard, but through the scoring methodology to penalise the Bidder which fails to meet the thresholds and to award points to that Bidder which meets or exceed the targets. In this way the rationale and integrity of the Balanced Scorecard is not compromised and upholds the Department's Target Group policy intent for the Project.

In general, the scoring achieved in relation to an element of the Balanced Scorecard will be calculated as follows:

	Percentage of total scoring per element
Failure to meet the minimum threshold	0%
Meeting or exceeding the minimum threshold but less than the target	< 25%
Achieving the target	± 50%

Exceeding the target	> 50%
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1.4 The Department’s expected response to be provided by the Bidder

In relation to the Balanced Scorecard, the Bidder is required to prepare the following:

- present a summary of the levels for each element of the Balanced Scorecard using the MS Excel spreadsheet provided, this information should be provided in both electronic and hard copies; and
- for each element of the Balanced Scorecard, in general, the Bidder shall comprehensively demonstrate how they have met its indicated levels in relation to each Balanced Scorecard element. The requirements listed below provide an indication only of what the Department would expect the Bidder to provide in relation to each element of the Balanced Scorecard. This is not intended to be an exhaustive list and should a Bidder provide exactly what is included within this paragraph 1.4 does not ensure that it will necessarily meet the minimum threshold of 50% of the Target Group evaluation scoring addressed in 1.3 above.

In completing this information the Bidder must have regard to the defined terms provided in the glossary to the RFP.

In evaluating the Bidder’s Target Group response and in addition to the information contained in its RFP Bid, the Department may request additional information as the Department deems necessary, in its sole discretion, including but not limited to, interviews with Target Groups, any further statutory information the Department may require or confidential credit reviews of the Target Groups.

a) Private Party Equity

The Bidder shall provide the details of each Equity Member who is a Black Person or a Black Enterprise and complete the following table.

Table 12 – Information required in respect of Black Equity

Equity Member	% Shareholding in SPV	% Black Shareholding in Equity Member	Shareholder Black Person and/or Black Enterprise?	BEE Shareholding in SPV as per Defined Terms (A1)

The consortium agreement referred to in Annexure C (*Legal requirements*) must, *inter alia*, demonstrate:

- i) the funding terms for Black Shareholders;
- ii) sponsor support arrangements to Black Shareholders;
- iii) commitments in respect of Black People in Management Control; and
- iv) the terms and conditions required to be met for each disposal of shares by an Equity Member of the Private Party.

In the event that the Bidder indicates that Black Shareholder's shares are to be warehoused, the Bidder is required to provide full details indicating the contractual arrangements to effect the transfer of all rights and obligations in respect of the shares to the Black Shareholders. Failure to provide complete information may result in such warehoused shares not being considered as Black Equity for the purposes of scoring the Balanced Scorecard.

In the event that a Black Shareholder is either a listed public company ("Listed Company") or a subsidiary of such Listed Company, such company shall provide proof, to the satisfaction of the Department, that it meets the definition of Black Enterprise.

b) Private Party management and employment

i) Management Control

For the purposes of evaluating the RFP Bids, Management Control shall be applied on a head count basis having regard to the roles and responsibilities indicated in the definition of Management Control. The Bidder should note that this is in contrast to the penalty regime (as contemplated in Schedule 8 (*Payment Mechanism*) of the PPP Agreement) proposed for failure to meet the Management Control targets which will be applied in relation to remuneration paid to the employees of the Private Party. The reason for the difference in approach is due to the anticipated unavailability of the remuneration for Private Party employees.

The Bidder is required to provide an organogram of the envisaged personnel structure indicating:

- (1) detailing the envisaged roles and responsibilities of each person within the structure; and

(2) where individuals have been identified the Bidder shall provide curricula vitae for each key position held by a Black Person and provide a clear cross-reference to the human resources organogram required in terms of Annexure F (*Human resources requirements*) to this RFP.

ii) Employment equity

The Bidder shall demonstrate (in respect of the SPV) how it intends to meet its statutory obligations in terms of the Employment Equity Act, 1998. In respect of the D&C Subcontractor and the Operations Subcontractor their employment equity requirements are detailed in paragraph 1.4 c) iii) of this annexure.

iii) Skills development

The Bidder shall provide an indicative skills development plan (prepared in accordance with section 20(1) of the Skills Development Act, 1998), this plan must clearly demonstrate the Bidder's commitment to meet the requirement of 1,5% of payroll to be spent on the development of Target Groups (of which 1% of the payroll must be spent on Black employees).

The Bidder is to note that the 1,5% target requirement in terms of this RFP should not be confused with its statutory requirements in terms of the Skills Development Levies Act, 1999. In respect of the 1,5% requirement the Bidder is to demonstrate its commitment to spend at least 1,5% of its total payroll expenses on training and development of its employees who fall within the Target Groups.

The Bidder's submissions in respect of the Target Groups skills development should provide a clear link to the requirements in terms of Annexure F (*Human resources requirements*) to this RFP.

c) Committed Subcontractors

i) Capital and Operational Expenditure

In terms of the Balanced Scorecard (Balanced Scorecard C1), Project capital expenditure relates *only* to that expenditure paid "*to Black People and/ or Black Enterprises from the Private Party*", or stated alternately, the expenditure paid *directly* by the Private Party to the D&C Subcontractor.

Similarly, Project operational expenditure (Balanced Scorecard C2) shall relate *only* to that expenditure paid directly to Black People and/ or Black Enterprises.

The following examples of the application of the above are given to assist the Bidder in determining whether it has met the target or not.

Example 1

In the event that the D&C Subcontractor is contemplated as being structured as a joint venture the pro-rata portion of the D&C Subcontract being undertaken by a Black Person and/ or a Black Enterprise shall be regarded as fulfilment of the target requirement (Balanced Scorecard C1).

Example 2

In the event that the Operations Subcontract is contemplated as being entered into between the Private Party and a single Enterprise which does not qualify as a Black Enterprise, then the amount paid to Black Enterprises for the purposes of this target (Balanced Scorecard C2) shall be 0%.

The Bidder is required to clearly demonstrate the intended allocation of work to Black Persons and/ or Black Enterprises in respect of both the D&C Subcontract and the Operations Subcontract.

ii) Management Control

In respect of the Management Control at the level of the Committed Subcontractors, Management Control shall be applied consistently with b) i) of this annexure, with the proviso that the head count shall be regarded as those individuals working *specifically* on this Project.

The Bidder is required to provide an organogram of the envisaged personnel structure (for individuals working specifically on this Project) for each Committed Subcontractor indicating:

- (1) the details of the envisaged roles and responsibilities of each person within the structure; and
- (2) where individuals have been identified the Bidder shall provide curricula vitae for each key position held by a Black Person and provide a clear

cross-reference to the human resources organogram required in terms of Annexure F (*Human resources requirements*) to this RFP.

iii) Employment equity

The Bidder is required to:

- (1) clearly demonstrate that its Committed Subcontractors are in compliance with their statutory obligations in respect of the Employment Equity Act, 1998; and
- (2) provide the most recent employment equity plans, in respect of each Committed Subcontractor.

iv) Skills development

In respect of the Committed Subcontractors, the Bidder shall provide its latest skills development plans (prepared in accordance with section 20(1) of the Skills Development Act, 1998), these plans must clearly demonstrate the Committed Subcontractors' commitment to meet the requirement of 1,5% of payroll to be spent on the development of Target Groups (of which 1% of the payroll must be spent on Black employees).

The Bidder's submissions in respect of the Target Groups skills development should provide a clear link to the requirements in terms of Annexure F (*Human resources requirements*) to this RFP.

v) Procurement by Committed Subcontractors paid to Black SMMEs

In the context of the procurement target requirement the Black SMMEs shall be required to qualify as Black Enterprises.

The Committed Subcontractors shall demonstrate how they intend to meet their procurement targets in relation to Black SMMEs.

vi) Local economic development

In the RFQ the Bidder presented its indicative plans for local economic development. In its RFP Bid the Bidder is required to elaborate on such plans in order to demonstrate its commitment to promoting local socio-economic development within Tshwane and the Project Site area (Balanced Scorecard D). In preparing its local economic development plans the Bidder is required to have regard to the following principles:

- (1) a minimum of 1% of the Unitary Payment is to be spent directly on local economic development projects per annum; in this regard the Bidder's attention is drawn to Schedule 17 (*Target Group Terms*) wherein the Bidder's shall be required to propose a practical and sustainable mechanism for the selection, evaluation and funding of local economic development projects ;
- (2) in the design of the local economic development programmes due regard must be had for the communities' concerns and upliftment initiatives, these concerns and initiatives have been summarised in the comments and responses report provided in the Data Room;
- (3) due consideration should be given to the Government's broader priorities;
- (4) the finalisation of its local economic development programmes is to be finalised in conjunction with the Department; and
- (5) the local economic development programmes are required to be sustainable on a demonstrable basis.

vii) Women participation

The Bidder should note that the requirement to meet the targets in respect of the participation of Women (for both the Private Party and the Committed Subcontractors) does not rest solely with Broad Based Black Economic Empowerment participants in the Project, but must be shared with non-Broad Based Black Economic Empowerment participants.

The Bidder is required to provide the following information in respect of participation by Women (including both Women and Women Enterprises) in the Project:

- (1) In respect of the Private Party Equity, the information as required in terms of 1.4 a) of this annexure.
- (2) In respect of the Private Party management and employment, the information as required in terms of 1.4 b)i) of this annexure.
- (3) In respect of the Committed Subcontractors, the information as required in terms of 1.4 c)i) and ii) of this annexure.

viii) Disabled Persons participation

In submitting its RFP Bid, the Bidder should have regard for the prevailing government policies and practices, *inter alia*, the Code of Good Practice on Key Aspects on the Employment of People with Disabilities as well as Governments

Technical Assistance Guidelines, both issued in terms of the Employment Equity Act, 1998, and available from the Department of Labour. The Bidder needs to have sufficient information and demonstrable proof of disability in respect of Disabled Persons and Disabled Person Enterprises which can be provided to the Department upon request.

The Bidder is required to provide the following information in respect of the participation by Disabled Persons (including both individuals and Disabled Person Enterprises) in the Project:

- (1) In respect of the Private Party Equity, the information as required in terms of 1.4 a) of this annexure.
- (2) In respect of the Private Party management and employment, the information as required in terms of 1.4 b)i) of this annexure.
- (3) In respect of the Committed Subcontractors, the information as required in terms of 1.4 c)i) and ii) of this annexure.

1.5 Mark-up of schedules to the PPP Agreement

The Bidder is required to mark-up clauses 43 (*Black Equity in the Private Party*) to 46 (*Requirements for Women and Disabled Persons*) (inclusive) of the PPP Agreement, Schedule 8 (*Payment Mechanism*) and Schedule 17 (*Target Group Terms*) to the PPP Agreement relating to the empowerment deductions and the Target Group terms, respectively. The Bidder is required to mark-up the PPP Agreement and its schedules in accordance with the requirements as set forth in Annexure C (*Legal requirements*) of this RFP.

1.6 DBSA Funding Offer

In the event that the Bidder is to make use of the DBSA Funding Offer, the Bidder is required to mark-up the Term Sheets attached as Annexure N (*DBSA Funding Offer*) to this RFP. The Bidder is required to mark-up these schedules in accordance with the requirements as set forth in Annexure C (*Legal*) of this RFP. The DBSA are to provide a letter confirming that it has considered the marked-up Term Sheets and provide a letter of commitment to the Bidder that it is willing to provide funding in accordance with those terms.

In the event that the Bidder choose not to make use of the DBSA Funding Offer, the Bidder is required to:

- a) clearly demonstrate how its alternate funding package for Target Groups meets the Department's objectives for Target Group funding as set out in paragraph 4.11.1 of the RFP;
- b) the Lenders are to confirm that they agree that the Department's objectives for Target Group funding as set out in paragraph 4.11.1 of the RFP have been met; and
- c) provide a comprehensive term sheet from a financial institution for each loan to members of the Target Groups, detailing, *inter alia*, the following:
 - i) the base interest rate and margins of the loan;
 - ii) repayment terms;
 - iii) any coverage ratios requirements;
 - iv) loan security requirements;
 - v) conditions precedent;
 - vi) draw-down conditions;
 - vii) up-front or arranging fees;
 - viii) any on-going commitment fees;
 - ix) any other costs associated with the loan;
 - x) envisaged events of default; and
 - xi) any undertakings, representations or warranties required.

1.7 Target Group information to be provided in the Financial Model

The Financial Model must reflect the Bidder's financing arrangements in respect of the Target Groups and must demonstrate, *inter alia*:

- a) sources or type of Equity contribution for Target Groups (e.g. Target Groups' balance sheet funds, loans to Target Groups);
- b) costs of Equity in relation to the Target Groups;
- c) timing of Project cash flows to Target Groups;
- d) management fees payable to Target Groups; and
- e) operating costs for all skills development, employment equity and socio-economic programmes.

Annexure E: Financial and Insurance requirements

This annexure sets out the information that the Bidder is required to provide with regard to its proposed financial structures and solutions.

1.1 Project financial structure

The Bidder is to describe in detail the financial structure that is proposed to fund the Project. The Bidder must provide at least the following information for its Compliant Bid and each Variant Bid (if any) submitted:

- a) Overview of financial structure
 - i) outline of the proposed financial and legal structure with Project cost and funding structure diagram;
 - ii) proposed debt: Equity ratio;
 - iii) nature of proposed financing – balance sheet or project finance;
 - iv) identification of the Lenders;
 - v) identification of the Equity Members (both Target Groups and non-Target Groups);
 - vi) overview of proposed Target Group funding structures (see further requirements in Annexure D (*Target Group requirements*) of this RFP); and
 - vii) outline of security requirements of the proposed funding structure.
- b) Equity Funding
 - i) detailed description of the proposed equity structure (classes of shares to be issued and authorised share capital);
 - ii) equity participation of each Equity Member;
 - iii) equity funding required rate of return in respect of each Equity Member;
 - iv) details of Project development costs;
 - v) details of any options or similar rights held by any party over the share capital (authorised or issued) of any of the corporate entities in the proposed funding structure;
 - vi) for each shareholder, certified copies of directors resolution approving the participation in the Project as a shareholder and detailing the extent of their proposed equity investment; and
 - vii) details of how each Equity Member intends to fund its equity investment in the Project (see requirements with regard to Target Group funding in Annexure D (*Target Group requirements*) of this RFP).
- c) Debt Financing

- i) letters of commitment from each Lender that intends to provide debt or quasi-debt finance pledging exclusive commitment to the Bidder;
 - ii) detailed term sheet for each category of debt finance, a detailed financing terms sheet from each Lender and for the sake of clarity this shall include the DBSA should the DBSA Funding Offer be taken up;
 - iii) for each category of debt finance, a detailed breakdown from each Lender of how the cost of debt financing has been/ will be determined and how the margins have been determined;
 - iv) details of all fees charged by the Lenders and its advisors and the Private Party's share of the Independent Certifier;
 - v) in the event that floating rate funding is proposed by the Bidder details of how interest rate risk will be managed and the related cost of hedging such exposure;
 - vi) in the event that it is contemplated that there shall be imported components details of how foreign exchange risk will be managed and the related cost of hedging such exposure;
 - vii) details of the capitalisation of interest during construction;
 - viii) in the case of retendering the PPP Agreement following Private Party default, what percentage of the total Adjusted Debt (as defined in the PPP Agreement) outstanding the Bidder believes should be repaid in the event that, on retendering, the highest tender price is less than the debt; and
 - ix) in the case that the PPP Agreement is not retendered following Private Party default, what percentage of the Adjusted Debt (as defined in the PPP Agreement) the Bidder believes should be repaid in the event that the adjusted estimated Project value is less than the debt.
 - x) in terms of clause 38.10 the Bidder is to propose the basis of any sharing, between the Department and the Private Party, of savings resulting from a Private Party Variation (as defined in the PPP Agreement).
- d) Management of the financial structure during the Project Term
- i) Details of how the Refinancing Gains (as defined in the PPP Agreement), in terms of clause 60.4 of the PPP Agreement, are proposed to be shared between the Bidder and the Department.
- e) Proposed financial year end of the Private Party
- i) the financial year end of the Private Party shall match that of the Government, i.e. March, should the Bidder wish to propose an alternative year end this must be fully motivated in its RFP Bid.

1.2 Level of funding commitment

The Bidder is required to submit a fully underwritten RFP Bid, in respect of both equity and debt finance. The debt finance to be underwritten shall be the total debt finance and, for the sake of clarity, shall include any funds provided by DBSA in terms of the DBSA Funding Offer. The DBSA shall provide a letter confirming the percentage of the debt finance which they are willing to provide to the Bidder.

The Bidder that provides funding structures which are non-committal or are highly conditional place its RFP Bid at significant risk of being rejected. The Bidder is required to clearly demonstrate an ability to implement the proposed funding structures in its RFP Bid without protracted negotiations with the Department.

1.3 Contents of the Financial Model

The Bidder is required to prepare and submit a Financial Model for each Compliant Bid and each of its Variant Bids. The Financial Model should be prepared in MS-Excel format and must be submitted both in hard copy and electronic formats. The Financial Model must be prepared using **January 2005** as the base year. During the construction and development period the Financial Model must be prepared on monthly basis. After the construction and development period the Financial Model must be prepared on a semi-annual basis or, where the Bidder proposes a project finance structure, the model should illustrate cash flows at the ratio test dates where this does not occur semi-annually. The Financial Model should provide annual summaries for the full term of the PPP Agreement. All assumptions made in preparing the Financial Model must be described in detail in a write-up to the Financial Model. The Bidder must provide a thorough and detailed explanation of the Financial Model as well as instructions on how to operate the Financial Model.

The Financial Model should set out at least the following information (in nominal and real terms), where relevant:

- a) Forecast financial statements for the Private Party:
 - i) forecast income statement, the revenue line should indicate the split in the Unitary Payment between payment for the immovable property, moveable property and the Services, the Bidder should note that this information is required for reporting information and shall not detract from the indivisibility of the Unitary Payment;
 - ii) forecast balance sheet; and
 - iii) forecast cash flow statement.
- b) Economic and general assumptions

- i) inflation assumptions at a forecast inflation rate of 5% per annum;
 - ii) forecast foreign currency conversion rates; and
 - iii) forecast company tax rate and VAT rate.
- c) Equity assumptions
- i) total Equity (including standby and subordinated facilities);
 - ii) the Equity contribution by each member of the consortium, showing the percentage of total Equity of sub-debt to be provided by each member; and
 - iii) real and nominal return on Equity as compensation to reflect the base case return on Equity for the entire duration of the PPP Agreement.
- d) Debt assumptions
- i) debt to Equity ratio;
 - ii) funding assumptions schedule identifying all sources, amounts and application of finance, conditions, terms, base costs, margins and fees;
 - iii) a debt schedule for each credit facility, including a draw-down schedule, interest paid, fees and repayment schedules;
 - iv) the cost of debt clearly detailing the level of fees and margin;
 - v) the basis and costs of proposed interest rate or currency hedging arrangements;
 - vi) capitalisation of interest during construction;
 - vii) creation, addition to and use of all reserve accounts; and
 - viii) cost of financing of Target Groups.
- e) Capital Expenditure
- i) capital expenditure according to the component category breakdown set out in Annexure B (*Technical requirements*) of this RFP;
 - ii) Project start-up costs;
 - iii) details of capitalisation of interest;
 - iv) identification of any foreign denominated goods or services;
 - v) the basis and costs of proposed currency hedging arrangements;
 - vi) assumptions on penalty deductions (the Bidder is at the least, in its Financial Model, in respect of its Compliant Bid, required to indicate its costs relating to capped penalty deductions and uncapped penalty deductions);
 - vii) draw down schedule during construction period covering full Project development cost (including all the cost of interest during construction and the cost of the DBSA Funding Offer or an alternative funding package for Target Groups); and
 - viii) forecast depreciation schedules for each class of asset.
- f) Revenues
- i) calculation of the Unitary Payment; and

- ii) other revenue assumptions
- g) Operating costs
 - i) total operating cost and maintenance assumptions, including replacement schedules in accordance with paragraph 2.5 of Annexure B (*Technical requirements*) of this RFP; and
 - ii) costs of insurance
- h) Taxation
 - i) comprehensive and detailed explanation of all VAT and other tax treatments assumed in the model;
 - ii) details of all taxation assumptions and treatment and the ability to enable or disable any or all such assumptions or treatments in the model;
 - iii) tax computation, including current and deferred tax; and
 - iv) cash flow implications of VAT.
- i) All the key output ratios and return categories:
 - i) debt service cover ratios (DSCR), including and excluding cash;
 - ii) loan life cover ratio (LLCR);
 - iii) Project life cover ratio (PLCR);
 - iv) And any other ratios required by Lenders;
 - v) net present value (NPV) of Unitary Payment in real and nominal terms using 5,7% and 11% discount rates, respectively; and
 - vi) projected internal rate of return (IRR), in respect of both the Project and the Equity funding, before financing and tax in both real and nominal terms.
- j) Sensitivity analyses (impact on Unitary Payment)
 - i) variances in capital expenditure (+20% +10% +5% -5% -10% -20%);
 - ii) variances in operating expenditure (+20% +10% +5% -5% -10% -20%);
 - iii) fluctuations in interest rates;
 - iv) grace periods of principal repayment;
 - v) maturity of debt;
 - vi) inflation; and
 - vii) devaluation of Rand and currency treatment.
- k) The Bidder's approach to the pricing of risk into the Project.

Where a Bidder is of the view that either the assumption regarding the forecast inflation rate or the discount rates used for calculating the net present value do not reflect current market conditions it may submit a separate Financial Model indicating their view of the current market conditions appropriate to a "bankers' base case model". Such model must be clearly marked as the "bankers' base case model".

1.4 Accounting treatment for the Project

The Bidder is required to provide a proposal in its RFP Bid as to its intended accounting treatment in terms of generally accepted accounting practice (GAAP). Such proposal must highlight the accounting treatment throughout the Project Term, *inter alia*, at inception, at Service Commencement and at expiry and/ or termination. The Bidder should be aware that the Government is currently in a process of converting from a cash basis of accounting to an accrual basis of accounting and as such the Department may make requests to the Private Party (in terms of clause 59 (*Information and audit access*) of the PPP Agreement) to assist it in meeting its reporting requirements to the Office of the Accountant-General and the Office of the Auditor-General. The accounting treatment proposed by the Bidder may be scrutinised by the Office of the Accountant-General.

1.5 Asset management and asset disposal

The Bidder is required to provide details as to how it intends to manage the Facilities Assets in compliance with all relevant legislation and, in particular, Treasury Regulation 10 and the Asset Management Framework issued by National Treasury. Such proposal must provide a clear link to the systems and software to be provided by the Operations Subcontractor in terms of Annexure B (*Technical requirements*) of this RFP. The asset register must be made available to the Department, in a format specified by the Department, on a six-monthly basis, or more regularly if so required by the Department.

The Bidder is required to provide a description of its intended asset disposal process, such process description must comply with all relevant legislation and, in particular, Treasury Regulation 16A.

1.6 Insurance

The Bidder is required to mark-up Schedule 15 (*Insurance*) to the PPP Agreement. The Bidder is required to mark-up this schedule in accordance with the requirements as set forth in Annexure C (*Legal requirements*) of this RFP.

The Bidder is further required to provide an indication of the form of a brokers undertaking in respect of the various minimum insurance covers for the Project.

Annexure F: Human resources requirements

This annexure sets out the information that the Bidder is required to provide with regard to their proposed human resources solutions.

It is imperative for the Department that the Project is understood by the Bidder to constitute an integration between the design requirements of the Facilities on the one hand, and the related interaction between business processes, people management processes, technology, systems, structure, the environment and the greater culture and philosophy of the Department on the other hand. A number of principles have been identified as important for consideration from a human resources perspective, when addressing the building requirements for the Facilities. These human resources principles have been derived from a review of the Department's organisational strategy, vision, mission, strategic objectives and core values, alongside the accommodation and related services request.

The human resources principles should address the Department's need to:

- a) promote a sense of peace and security, and provide for a calm working environment;
- b) ensure a focus on key business objectives;
- c) promote democratisation of the workplace e.g. through allowing for optimal interaction;
- d) ensure accessibility to stakeholders;
- e) promote effective and efficient service delivery;
- f) aid the Department in promoting itself as a "better"/ best practice employer (requiring consideration of services such as crèche facilities and a cafeteria);
- g) incorporate consideration of ergonomics – to send out a message to staff around their value to the organisation;
- h) take cognisance of the staff composition of the Department to ensure that special needs (i.e. in respect of disabled persons and women) are incorporated, not only in the design of the Facilities, but also in the Bidder's human resources approaches; and
- i) ensure a successful long term strategic partnership fit between the Private Party and the Department.

The Bidder is required to, through its RFP Bid, indicate how its human resources approaches will align to the above principles and will cater for the needs of staff and entrench the Department as a people orientated organisation.

It should be noted that during the RFQ process, information provided by a number of the Bidders was limited and fairly generic in respect of human resources issues. The Bidder is, therefore, requested to attend to this area with the same amount of rigour as all other areas. The Department is interested to determine the extent to which the Bidder will engage with the delivery of Output Specifications through a partnership and people-centred approach.

In requesting information in respect of human resources issues, it should be noted that the Private Party is expected to regulate and monitor the human resources policies and procedures implemented by its D&C Subcontractor and Operations Subcontractor and ensure that an overarching human resources strategy exists. Where strategies are requested in this RFP, it is anticipated that this will be a joint strategy applicable to the Bidder, inclusive of its D&C Subcontractor and the Operations Subcontractor.

1 Human resources strategy and staffing considerations

While the RFQ made reference to a potential transfer of staff in terms of Section 197 of the LRA, there will no longer be a Section 197 transfer of services. As a result, the Private Party will receive no staff from the Department to achieve the Output Specifications in respect of the Services. All staffing arrangements necessary to meet the Output Specifications of each of the Services should be read in the context of paragraph 6 of the RFP.

The Bidder is required to reflect within the human resources response in its RFP Bid the staffing arrangements that will be made in order to ensure the identified outputs. Details to be provided include the following:

- a) Staffing details of key staff required to meet the Output Specifications (at a management level in respect of the Private Party, the D&C Subcontractor and the Operations Subcontractor) should be specified in the table below. This is required in relation to both the Works and the Services areas. The Bidder should provide staffing details for those Services as contemplated in terms of 6.1 for which the Private Party will provide the employees and the Private Party will provide the space, equipment, systems and software, including the following:
 - i) number of staff required per Service area, based on the Output Specifications (at both a management and operations level – across the Private Party, the D&C Subcontractor and the Operations Subcontractor);
 - ii) number and percentage of staff currently employed;

- iii) the planned approach to address gaps in capacity (i.e. how any potential shortfall in staff will be addressed) ;
 - iv) in terms of the nature of employment currently used or to be used:
 - (1) Will staff be employed on a permanent, contractor temporary basis?
 - (2) What is the perceived impact of the method of employment, in terms of potential turnover or loss of staff?
 - (3) How will staff retention be enhanced?
 - v) the staff profile, indicating the qualifications, training and experience required; and
 - vi) total staff budget.
- b) The Bidder should provide staffing details for those Services as contemplated in terms of 6.2 for which the Department will provide the employees, but the Private Party will provide the space, equipment, systems and software, including the following:
- i) the staff profile, indicating the qualifications, training and experience required.
- c) An organogram of the staffing arrangements in respect of both the Works and the Services. This will need to detail:
- i) roles and responsibilities;
 - ii) decision making authorities;
 - iii) reporting lines;
 - iv) the relationship between the Private Party and the Department; and
 - v) the relationship between the Private Party and the D&C Subcontractor and the Operations Subcontractor;
- d) Please provide details of the Bidder's individual's performance management and the organisational performance management system, including details on:
- i) who the system applies to;
 - ii) how performance is contracted;
 - iii) how performance at an individual and organisational level is overseen, and who holds responsibility for this function;
 - iv) how performance is reviewed and rewarded;
 - v) how non-performance dealt with; and
 - vi) the role the Private Party will play in monitoring performance of the D&C Subcontractor and the Operations Subcontractor.
- e) Please provide details of the Bidder's understanding of the specific ways in which staff will need to be managed as a result of the placement of the Project within a Departmental context.

- f) The Bidder is to demonstrate how it intends to ensure compliance with the Department's code of conduct, contained in the Data Room. This should include:
 - i) Comment on the mechanisms through which compliance will be maintained;
 - ii) Comment on the mechanisms through which "cultural fit" of the Bidder's employees with the Department will be achieved.

2 Skills development

The Bidder is expected to provide details on its skills development strategies which should be clearly cross-referenced to the Bidder's proposed training in relation to the space, equipment, systems and software as required in terms of Annexure B (*Technical requirements*) section 2.2.1, this should include the following:

- a) details regarding the skills development strategies that the Bidder intends implementing throughout the course of the Project, clearly indicating its strategy during both the Development Period and Service Period of the Project and addressing
 - i) the focus areas of the skills development strategy (e.g. skills needs analysis, targeted training, skills retention, and succession planning) and what this will involve;
 - ii) an implementation plan, detailing the roll-out of the skills development strategy through all phases of the Project (from the gearing up stage through to on-going service delivery), and incorporating requirements for both legal compliance and good practice;
 - iii) an attached budget.

The Bidder is to provide a clear link with its Target Group skills development requirements in terms of Annexure D (*Target Group requirements*) of this RFP.

3 Labour relations strategy

The Bidder is required to:

- a) provide details of its intended labour relations strategy, and in particular, the labour relations strategy and practical approach the Bidder and the Committed Subcontractors would adopt in the first three years, indicating priority areas and solutions to challenges; and
- b) provide details regarding its, the Equity Members' and the Committed Subcontractors' experience in managing organised labour.

4 Human resources and labour relations policies

- a) Current policies and procedures

- (i) The Bidder, the Equity Members and the Committed Subcontractors are to complete Table 1 (*Existing human resources and labour relations policies*) below with regards to human resource and labour relations policies currently being implemented in their respective organisations. Where possible, kindly provide an indication as to the benefit/ terms afforded to your employees. under these policies, i.e. number days of leave per annum, whether all employees are put through a staff induction programme, etc. The Bidder is requested not to include the policies themselves, but to complete the table below with respect to the key benefits/terms contained within these policies. The Department reserves its right to request these policies if identified as necessary.
- (ii) Where policies do not exist, please indicate the reason for this. Should an entity be newly established for the purposes of this RFP Bid, please indicate as such.

Table 1 - Existing human resources and labour relations policies

Policy	Existing [yes/no]	If yes, date of first acceptance and when last reviewed	Key benefit/ term provided under the policy
Human resource policies			
Recruitment and Selection Policy			
Training and Development Policy			
Performance Management Policy			
Remuneration and Incentive Policies			
Induction Policy			

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Policy	Existing [yes/no]	If yes, date of first acceptance and when last reviewed	Key benefit/ term provided under the policy
Smoking Policy			
Skills Development Policy			
Employment Equity Policy			
Computer Use and Internet Policy			
Labour relations policies			
Contracts of Employment			
Annual leave Policy			
Sick Leave Policy			
Maternity Leave Policy			
Family Responsibility Leave Policy			
Overtime Policy			
Affirmative Action Policy			
AIDS/HIV Policy			
Harassment Policy			

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Policy	Existing [yes/no]	If yes, date of first acceptance and when last reviewed	Key benefit/ term provided under the policy
Disciplinary Code and Procedure			
Grievance Policy			
Health and Safety Policy			
Placement and Migration Policy			
Labour Relations Policy			

b) Future policies and procedures:

- i) The Bidder, the D&C Subcontractor and the Operations Subcontractor are to complete the table as indicated Table 2 (*Future consolidated human resources and labour relations policies to be implemented*) below with regards to human resource and labour relations policies that will be implemented in the future, should their bid be successful. The Department wishes to see the specific benefits that will be afforded to employees within the Bidder's fold, in respect of the Works, and the Services. Should the parties be merging, shared policies and procedures will need to be proposed, together with details of the aligned benefits. The Department understands that detail human resources policies and procedures will only be developed at Preferred Bidder stage, but requires a sufficient level of detail at RFP Bid stage to assess what the Bidder's general approach will be towards the strategic and operational management of human resources.
- ii) The Bidder, the D&C Subcontractor and the Operations Subcontractor are to confirm, in writing, their commitment to implement and adhere to the proposed policies and procedures, and the date by which these will be implemented.
- iii) The Bidder is to confirm commitment to monitoring the implementation of the proposed policies and procedures.

Table 2 - Future consolidated human resources and labour relations policies to be implemented

Policy	To be developed?	Benefit to be provided
Human resource policies		
Recruitment and Selection Policy		
Training and Development Policy		
Performance Management Policy		
Remuneration and Incentive Policies		
Induction Policy		
Smoking Policy		
Skills Development Policy		
Employment Equity Policy		
Computer Use and Internet Policy		
Labour relations policies		
Contracts of Employment		
Annual leave Policy		
Sick Leave Policy		
Maternity Leave		

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Policy	To be developed?	Benefit to be provided
Policy		
Family Responsibility Leave Policy		
Overtime Policy		
Affirmative Action Policy		
AIDS/HIV Policy		
Harassment Policy		
Disciplinary Code and Procedure		
Grievance Policy		
Health and Safety Policy		
Placement and Migration Policy		
Labour Relations Policy		

Annexure G: Data Room list

Table 13 (*Data Room list*) provides an indication of the documents which will be included in the Data Room. The Bidder will be informed, in accordance with paragraph 9.6, as further documents are added to the Data Room.

Table 13 – Data Room list

Title	Date	Author
REQUEST FOR QUALIFICATION DOCUMENTS		
Request for Qualification document	November 2004	Department
Request for Qualification briefing note 1	December 2004	Department
Request for Qualification briefing note 2	December 2004	Department
Request for Qualification briefing note 3	December 2004	Department
Request for Qualification briefing note 4	January 2005	Department
TREASURY APPROVALS		
Letter registering the Project with the PPP Unit		National Treasury
Treasury Approval 1	19 November 2004	National Treasury
Treasury Approval 2 A in respect of the RFQ	22 November 2004	National Treasury
Treasury Approval 2 A in respect of the RFP	11 August 2005	National Treasury
GENERAL PPP DOCUMENTS		
Public Private Partnership Manual 2004	2004	National Treasury

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Title	Date	Author
Standardised Public Private Partnership Provisions	June 2004	National Treasury
Draft PPP Agreement marked-up against Standardisation	June 2005	Deneys Reitz Inc
DEPARTMENT STRATEGY DOCUMENTS		
Strategic Plan 2005-2008		Department
Strategic Plan 2003-2005		Department
Strategic Plan March 2004	March 2004	Department
Annual Report 2003/4		Department
Annual Report 2002/3		Department
Address by the Minister of Foreign Affairs on the occasion of the Budget Vote of the Department	15 April 2005	Department
HUMAN RESOURCES DOCUMENTATION		
Government code of conduct		
Organogram of the Department	June 2004	Department
25-year staff forecast	June 2004 (reviewed September 2004)	Department
Number of staff per building and per branch		Department
Departmental meeting calendar		Department
Description of the various branches		Department
EXTERNAL POLICES APPLICABLE TO THE PROJECT		

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Title	Date	Author
Minimum Information Security Standards (MISS) 2 nd edition ²⁸	March 1988	NIA
NIA Guidelines: Access Control ²⁹	September 2004	NIA
Record Management Policy Manual	April 2003	National Archives
Managing electronic records in Government bodies: Policy guidelines	April 2003	National Archives
Contract 3 of 2003: Supply of office equipment and labour saving devices: Copiers, duplicators, facsimile machines and shredders		State Tender Board
Corporate Identity and Branding Guidelines		GCIS
Asset Management Framework (v3.3)	April 2004	National Treasury
CURRENT LEASE AGREEMENTS		
Standard lease agreement for office accommodation: Sancardia Offices, Floors 2, 4, 6 and shop L3/37	June 2004	DPW
Standard lease agreement: Hatfield Court building	November 2003	DPW
Standard lease agreement: Tulbagh Park building	March 2004	DPW
Standard lease agreement: Tulbagh Park building	March 2004	DPW

²⁸ To be included with the permission of NIA

²⁹ To be included with the permission of NIA

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Title	Date	Author
Standard lease agreement: Gilboa building	November 2003	DPW
Standard lease agreement: 110 Hamilton Street building	October 2000	DPW
DEPARTMENTAL POLICIES		
Occupational Health and Safety Policy	September 2004	Department
Record keeping and mail distribution Policy	September 2004	Department
Reprographic services Policy	September 2004	Department
Travel Policy	September 2004	Department
Internal telephone Policy (landline): Draft	September 2004	Department
Procurement Policy		Department
Fraud Prevention Policy		Department
Fraud Prevention Strategy		Department
List of items to be included in the Relocation		Department
List of vehicles presently used by the Department		Department
PROJECT SITE		
Title Deeds in respect of each Project Site		
Correspondence between DPW and the Department offering the Soutpansberg Site for the Project		
Correspondence between DPW and the Department in respect of the Waterkloof Site		

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Title	Date	Author
Confirmation of zoning in respect of each Project Site	31 May 2005	Tshwane
Approved general plan in respect of the Waterkloof Site		
Conditions of establishment for the establishment of the township Waterkloof Heights Extension 7		
Soutpansberg Site geotechnical investigation	7 April 2004	Vela VKE
Soutpansberg Site services report	April 2004	Vela VKE
Waterkloof Site services report	29 July 2005	Vela VKE
Traffic impact study for the feasibility study for the proposed head office campus on the Soutpansberg Site	12 August 2004	Transportation division of Vela VKE
Abridged space planning report	7 June 2004	Vela VKE
Amended risk matrix report	15 June 2004	SPP Project Solutions
ENVIRONMENTAL DOCUMENTATION		
Motivation for Exemption from Undertaking an EIA on the Soutpansberg Site	6 September 2004	SPP Project Solutions
Environmental Report: Comments and Responses received following the Public Participation	29 November 2004	Dynacon Environmental
HERITAGE DOCUMENTATION		
Information Memorandum with Heritage Inventory and Preliminary Assessment of the Heritage Features of the Soutpansberg Site	15 September 2004	Helio Alliance
Heritage Impact Assessment of the site proposed for the new head offices of the Department of Foreign Affairs	26 November 2004	Helio Alliance

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Title	Date	Author
(Soutpansberg Road, Pretoria)		
TOWN PLANNING DOCUMENTATION		
Development Agreement	April 2005	Deneys Reitz Inc
Township Application	July 2005	CityScope Town Planners

Annexure H: Data Room access form

Department of Foreign Affairs

Design, construction, operation, maintenance and finance of a suitable and sustainable working environment

Data Room access form

Terms and conditions of access to the Data Room

1 Confidentiality

1.1 The documentation provided in the Data Room is made available to the Bidder in terms of the Confidentiality Undertaking signed by the Bidder as set out in Annexure M (*Confidentiality undertaking*). For the avoidance of doubt, the Bidder acknowledges that all documentation provided in the Data Room is confidential information and shall only be used by the Bidder for the purposes of completing its RFP Bid and for no other purpose.

1.2 The rules and procedures as set out herein do not derogate from or affect any rights or obligation arising under the Confidentiality Undertaking and in the event of any inconsistency between these rules and procedures and the Confidentiality Undertaking, the Confidentiality undertaking shall prevail.

1.3 As indicated in 3 below photocopying facilities shall be provided for use by the Bidder, the Department, in its sole discretion, may decide that certain information may not be photocopied. In addition, the Department may request that all photocopied information is returned within 10 Business Days after the Close Date.

2 No representations or warranties

2.1 The Department and its Advisory Team provide no representations or warranties as to the accuracy or completeness of the information provided in the Data Room and no reliance should be placed thereon by the Bidder. The Bidder, at its own cost, are to perform its own investigations to satisfy themselves as to the accuracy of the information provided.

3 Facilities Provided

3.1 The Data Room shall contain shelved storage, a desk with 4 chairs and accordingly, the number of persons in the Data Room will be limited to a maximum of four persons at a time.

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- 3.2 Writing material, Dictaphones and/ or tape recorders, mobile phones and portable computers (including accessories necessary for their operation) will only be allowed to be taken into the Data Room.
- 3.3 A photocopier machine shall be provided for use by the Bidder. The Bidder shall be required to list all information photocopied. Photocopies shall be charged at 40c per A4 page. No document may be removed from the Data Room for any reason whatsoever, other than the permitted photocopied documents.
- 3.4 All documentation provided in the Data Room shall be numbered and indexed. Documents or records may be removed from any file or folder in which they are located, for viewing or examination, but must be replaced in the same place and manner in which they were found. Documents which are bound must not be removed from the binder in which they are held. No document may be marked, modified (including varying the sequence thereof), damaged in any way or destroyed. Bidders should be aware that documents will be in either English or Afrikaans.
- 3.5 The Bidder upon entering the Data Room will be provided with an up-to-date list of all information contained in the Data Room.
- 4 General
- 4.1 The access to the Data Room may be audited at any time by the Department. The Department reserves the right on just cause to refuse admission to the Data Room to any person at any time.
- 4.2 There shall be a regular review of the currency of the information in the Data Room in light of the up-to-date list provided to the Bidders upon entry to the Data Room.
- 4.3 The Bidder must vacate the Data Room promptly at the end of the time allocated for their access to the Data Room and shall not be entitled to any extension of this time without the prior agreement of the Project Officer.

Before admission to the Data Room the Bidder shall be required to sign the declaration below:

I, [NAME IN BLOCK LETTERS], the undersigned, on behalf of [INSERT NAME OF BIDDER] am aware of and acknowledge the obligations contained in the Confidentiality Undertaking signed by ourselves as set out in Annexure M (*Confidentiality undertaking*) and undertake to comply with the aforementioned rules and procedures in respect of the Data Room

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SIGNATURE: _____

DATE OF ACCESS: _____

TIME IN: _____

TIME OUT: _____

Annexure I: Declaration by the Bidder

As required under paragraph 3 the Bidder is required to complete the attached declaration as part of its RFP Bids.

TO BE TYPED ON LETTERHEAD OF LEAD MEMBER

[insert date]

Department of Foreign Affairs
Private Bag X152
Pretoria
0001

Attention : Ms B Africa

Dear Madam

REQUEST FOR PROPOSAL: PUBLIC PRIVATE PARTNERSHIP FOR THE DESIGN, CONSTRUCTION, OPERATION, MAINTENANCE AND FINANCE OF SERVICED ACCOMMODATION FOR THE DEPARTMENT OF FOREIGN AFFAIRS OF THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA (RFP): SUBMISSION IN RESPONSE TO RFP: DECLARATION BY LEAD MEMBER

Capitalised terms utilised in this letter shall have the same meaning as ascribed thereto in the RFP, unless the context indicates otherwise.

In making this RFP Bid, the Bidder, Equity Members and Committed Subcontractors:

1. agree to abide by the terms of the RFP and insofar as obligations are imposed on the Bidder, Equity Members and/or Committed Subcontractors agree to be bound thereto;
2. confirm that all documentation forming part of this RFP Bid is factually correct and true;
3. confirm that this RFP Bid shall remain valid for a period of at least 182 days after the Close Date;

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4. enclose herewith a letter of intent by each of the Equity Members and Committed Subcontractors;
5. confirm that we are fully acquainted with the laws of South Africa (including without limitation all statues and regulations (on a national, provincial and municipal level)) in relation to Public Private Partnerships and the subject matter of the Project, and that we shall comply therewith; and
6. agree to fully comply with the principles of corporate governance as set out in the King Reports on Corporate Governance 1994 and 2002.

Yours faithfully

Name:

Designation:

Who warrants his authority hereto

Annexure J: Letter of intent

As required under paragraph 3, each Equity Member and Committed Subcontractor is required to complete the attached letter of intent as part of their RFP Bids:

**TO BE TYPED ON LETTERHEAD OF EQUITY MEMBER/COMMITTED
SUBCONTRACTOR (as the case may be)**

[insert date]

Department of Foreign Affairs

Private Bag X152

Pretoria

0001

Attention : Ms B Africa

Dear Madam

**REQUEST FOR PROPOSAL: PUBLIC PRIVATE PARTNERSHIP FOR THE
DESIGN, CONSTRUCTION, OPERATION, MAINTENANCE AND FINANCE OF
SERVICED ACCOMMODATION FOR THE DEPARTMENT OF FOREIGN
AFFAIRS OF THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA
(RFP): SUBMISSION IN RESPONSE TO RFP: LETTER OF INTENT**

Capitalised terms utilised in this letter shall have the same meaning as ascribed thereto in the RFP, unless the context indicates otherwise.

In making this RFP Bid, we undertake to:

1. abide the terms of the RFP and be bound by the obligations imposed on the Equity Members and Committed Subcontractors;
2. confirm that all information relating to ourselves in the RFP Bid is factually correct and true;

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3. authorise [insert name of Lead Member] to submit this RFP Bid and to make statements and receive instructions on behalf of ourselves;
4. agree to be a shareholder in any SPV established by the Bidder;
5. confirm that we are fully acquainted with the laws of South Africa (including without limitation all statutes and regulations (on a national, provincial and municipal level)) in relation to Public Private Partnerships and the subject matter of the Project, and that we shall comply therewith; and
6. agree to be a subcontractor to any SPV established by the Bidder.

Yours faithfully

Name:

Designation:

Who warrants his authority hereto

Annexure K: Pro forma bid bond

By : [insert name of bank]

[INSERT DATE]

In favour of : Department of Foreign Affairs of the Government
of the Republic of South Africa (the "Department")

WHEREAS [name of Bidder] (the "**Preferred Bidder**") has been invited to submit a bid in relation to the Request for Proposal ("RFP") for a Public Private Partnership for the Design, Construction, Operation, Maintenance and Finance of a Suitable and Sustainable Working Environment for the Department of Foreign Affairs of the Government of the Republic of South Africa (the "**Project**"), and has been selected as Preferred Bidder to enter into negotiations with the Department with a view to concluding an agreement in respect of the Project.

AND WHEREAS the Department requires the Preferred Bidder to provide an on demand bank guarantee for the maximum amount of R2 000 000 (the "**Maximum Amount**") to secure the submission of a response to the request for proposal ("**RFP**") mentioned above (the "**Bid Bond**").

AND WHEREAS we have agreed to provide to you such Bid Bond.

NOW THEREFORE we, [insert name of bank] ("the "**Bank**") duly represented by [insert] being duly authorised to sign this Bid Bond, hereby irrevocably and unconditionally undertake to pay you and without objection or argument, amounts of up to the Maximum Amount in aggregate, upon first written demand by the Department being received at the Bank's counter, situated at [insert address], attention [insert], declaring that an amount not exceeding the Maximum Amount is due and payable and that any or all of the following occurrences having occurred:

- (i) the Preferred Bidder withdrawing from negotiations prior to the expiry hereof; and/or

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- (ii) the Preferred Bidder making any material misrepresentations in its RFP Submission or during the negotiations; and/or
- (iii) the Preferred Bidder or any of its advisors, officers, employees or agents engaging in any collusive action with respect to the bid process; and/or
- (iv) the Preferred Bidder or any of its advisors, officers, employees or agents engaging in illegal activities in relation to the bid process; and/or
- (v) failure by the Preferred Bidder, to conclude an agreement with the Department on substantially the same terms and conditions as contained in its RFP Submission.

This Bid Bond shall expire:

- (i) at 12h00 on [insert date being not earlier than 182 days from date of issue of bond]; or
- (ii) upon an agreement in respect of the Project being concluded with the Department;

whichever is the earlier, and shall remain valid notwithstanding the Preferred Bidder's insolvency, winding-up, liquidation, judicial management, dissolution or deregistration, whether provisionally or finally.

This Bid Bond shall be returned to the Bank on payment of the Maximum Amount.

This Bid Bond shall be governed by the laws of the Republic of South Africa, and the parties hereto consent to the jurisdiction of the Transvaal Provincial Division of the High Court of South Africa.

SIGNATURE AND SEAL

Name of duly authorised
representative of bank

Signature of Representative

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Name of bank

Address

Date

Annexure L: Confidentiality undertaking

**TO BE TYPED ON LETTERHEAD OF BIDDER/LEAD MEMBER/EQUITY
MEMBER/COMMITTED SUBCONTRACTOR (AS THE CASE MAY BE)**

Department of Foreign Affairs
Private Bag X152
Pretoria
0001

Attention: Ms B Africa

Dear Sir

**REQUEST FOR PROPOSAL: PUBLIC PRIVATE PARTNERSHIP FOR THE
DESIGN, CONSTRUCTION, OPERATION, MAINTENANCE AND FINANCE OF
SUITABLE AND SUSTAINABLE WORKING ENVIRONMENT FOR THE
DEPARTMENT OF FOREIGN AFFAIRS OF THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA (RFP): CONFIDENTIALITY UNDERTAKING**

Capitalised terms utilised in this letter shall have the same meaning as ascribed thereto in the RFP, unless the context indicates otherwise.

In making its submission in response to the RFP, the Bidder, Equity Members and Committed Subcontractors, including their Lenders, employees, agents and advisors:

- 1 agree to keep confidential any information contained within the RFP (the "Confidential Information"), with the exception of any information which:
 - (a) is made available or published as required by any law or any regulatory authority; or
 - (b) is or becomes public knowledge (other than by reason of breach of paragraph 1 herein); or
 - (c) was in the possession of such party without restriction prior to its disclosure; or
 - (d) is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;

- 2 agree that the Confidential Information shall not be (in whole or in part) copied, reproduced, distributed or otherwise made available to any other party without the prior written consent of the Department;
- 3 agree that the Confidential Information shall remain the property of the Department and shall be returned to the Department on demand;
- 4 agree to keep its RFP Bid confidential from third parties (including but not limited to other Bidders, member of another Bidder, any other competitor or potential competitor), other than the Department, its officials, its advisors and other Government departments directly involved in the Project, the advisors and Lenders of the Bidder;
- 5 agree that the information and data contained in its RFP Bid shall become the sole property of the Department with the exception of copyrighted material, trade secrets or other proprietary information clearly identified as such which shall be treated as confidential and hereby agree to indemnify the Department in respect of any losses suffered by the Department in it refusing to disclose such confidential information to any person seeking access thereto;
- 6 agree to keep confidential any information accessed and obtained from the Data Room;
- 7 undertakes to procure that insofar as any Confidential Information is provided to any advisor and/or lender to the Bidder, that such advisor and/or lender provides an undertaking to abide by the terms of this undertaking to prevent the unauthorised disclosure of the Confidential Information to third parties;
- 8 each of the Bidder, the Equity Members and Committed Subcontractors acknowledges that the unauthorised disclosure of the Confidential Information to third parties may cause loss, harm or damage to the Department. Accordingly each of the Bidder, Equity Member and Committed Subcontractors indemnifies and holds the Department harmless against any loss, claim, action, expense or damage of whatsoever nature, suffered by the Department pursuant to a breach of this undertaking by the Bidder, the Equity Members and Committed Subcontractors;
- 9 each of the Bidder, Equity Members and Committed Subcontractors agrees to inform the Department of the full circumstances of any disclosure in terms of paragraph 8 or

upon becoming aware that Confidential Information has been disclosed in breach of this undertaking;

- 10 the Bidder, Equity Members and Committed Subcontractors acknowledge that some or all of the Confidential Information is or may be price sensitive information and that the use of such information may be regulated or prohibited by applicable legislation relating to insider dealing and agree not to use any Confidential Information for any unlawful purpose.

Yours faithfully

Name:

Designation:

Who warrants his authority hereto

Annexure M: Standard bidding documents

TENDER NUMBER : DFA 17 – 04/05

GENERAL CONDITIONS

1. Close Date: 2005 at 15:00 pm.
Late bids will not be entertained.
2. The 90 / 10 preference point system is applicable to these bids.
3. All documentation must be **completed, signed and returned** by the duly authorised person from the consortium.
4. A contract will be signed between the successful bidder/s and the Department of Foreign Affairs.
5. The Department reserves the right to do break – out procurement or to allocate the service to one supplier.
6. The Department may carry out site inspections at the premises of bidders.

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TENDER NO: DFA 17 – 04/05

SBD 1

CLOSE DATE:

CLOSE TIME: 15:00 PM

The Department of Foreign Affairs herewith issues the **“Request for Proposal: Public Private Partnership for the Design, Construction, Operation, Maintenance and Finance of a Suitable and Sustainable Working Environment for the Department of Foreign Affairs of the Government of the Republic of South Africa”**

Bids received after the closing time are late and will not be accepted for consideration

Bids must be hand delivered to the Department’s Procurement Directorate which is situated on the 2 nd floor of the Sancardia Shopping Centre, corner of Church and Beatrix Streets, ARCADIA, 0083

ALL BID DOCUMENTS MUST BE RETURNED. DO NOT RETYPE

Bids by telegram, facsimile or other similar apparatus will not be accepted for consideration

Bids must be sealed before submission and clearly indicate the Bid number

TENDER NO: DFA 17 – 04/05

SBD 1

The following particulars must be furnished. Failure to do so will result in your bid being disqualified

Name of Consortium

Name of Lead Member

Postal Address

.....

Street Address

.....

Telephone Number

Facsimile Number

Cellular Phone Number

Vat Registration Number

Signature of Bidder

Print Name

Date

Capacity under which this Bid is signed

TAX CLEARANCE REQUIREMENTS

IT IS A CONDITION OF BIDDING THAT -

1. The taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with the Receiver of Revenue to meet his / her tax obligations.
2. The attached form "Application for Tax Clearance Certificate (in respect of bidders)", must be completed in all respects and submitted to the Receiver of Revenue where the bidder is registered for tax purposes. The Receiver of Revenue will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of six (6) months from date of issue. This Tax Clearance Certificate must be submitted in the original together with the bid. Failure to submit the original and valid Tax Clearance Certificate may invalidate the bid.
3. In bids where Consortia / Joint Ventures / Sub-contractors are involved each party must submit a separate Tax Clearance Certificate. Copies of the Application for Tax Clearance Certificates are available at any Receiver's Office.

SBD2/ Application for Tax Certificate...

DECLARATION OF INTEREST

1. Any legal person, including persons employed by the principal, or persons having a kinship with persons employed by the principal, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the principal, 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 and/or take an oath declaring his/her interest, where-

- the bidder is employed by the principal; 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. Are you or any person connected with the bidder, YES / NO
employed by the principal?

2.1.2 If so, state particulars.
.....
.....

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

2.2.1 If so, state particulars.
.....
.....



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2.3 Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between the bidder and any person employed by the principal who may be involved with the evaluation and or adjudication of this bid? YES/NO

2.3.1 If so, state particulars.

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

DECLARATION

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

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2.1 TO 2.3.1 ABOVE IS CORRECT. I ACCEPT THAT THE PRINCIPAL MAY 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



Failure to submit this document with your bid
may result in the invalidation of your bid

THE NATIONAL INDUSTRIAL PARTICIPATION PROGRAMME

INTRODUCTION

The principle of Industrial Participation (IP) became obligatory with effect from 1 September 1996. The IP policy and guidelines was fully endorsed by Cabinet on 30 April 1997. In essence this means that all state and parastatal purchases / lease contracts (goods, works and services) entered into after this date are subject to an IP obligation. No contract will be awarded to a bidder if the latter has not satisfied the Industrial Participation requirement.

1. PILLARS OF THE PROGRAMME

1.1 The IP obligation is benchmarked on the imported content of the contract. Any contract having an imported content equal to or exceeding US\$ 10 million or other currency equivalent to US\$ 10 million will have an IP obligation. This threshold can be reached as follows:

- (i) Any single contract exceeding US \$10 million; or
- (ii) multiple contracts for the same products or services each exceeding US \$3 million awarded to one seller over a 2 year period which in total exceeds US \$10 million; or
- (iii) a contract with a renewable option clause, where should the option be exercised the total value will exceed US \$10 million.

1.2 The obligation will amount to 30 % of the imported content. That is, if the imported content is \$10 million, the obligation will amount to \$3 million. IP arrangements to satisfy the obligation include investments, joint ventures, sub-contracting, licensee production, export promotion, sourcing arrangements and Research and Development (R&D) collaboration, that can be negotiated with partners or suppliers.

1.3 A period of seven years has been identified as the time frame in which to discharge the obligation.

1.4 IP is obligatory and therefore must be addressed.

2. Requirements of the Department of Trade and Industry

2.1 To enable the Department of Trade and Industry to determine whether the total amount of various contracts awarded by the relevant organs of State to a specific contractor, exceeds the prescribed threshold of US \$ 10 million, the accounting officer / authority must obtain clearance from the Department of Trade and Industry regarding the National Industrial Participation Programme prior to the award of any bid in excess of R10 million (ten million rands).

2/...

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HOW TO SATISFY THE IP REQUIREMENTS

1. Bidders are advised to initiate discussions with the Department of Trade and Industry (Industrial Participation Secretariat) regarding business proposals.
2. Business proposals must reflect new or incremental economic activity that is to be to the mutual benefit of both the South African economy and to the bidder. Projects must be submitted to the Industrial Participation Secretariat for approval before implementation.
3. Conditional contracts, subject to winning the bid, are signed with all potential bidders. An agreement only becomes effective upon winning the bid. Only one contract will therefore become effective. This agreement is between the Industrial Participation Secretariat and the bidder and therefore does not involve the purchasing entity.

For further details about the programme, contact -

The Department of Trade and Industry (DTI) Telephone numbers: (012) 310-9667
Private Bag X84 0861 843384
PRETORIA Fax number: (012) 322-4523
0001

A conditional agreement for the purpose of this bid has been reached between the bidder and the Industrial Participation Secretariat.	
	Name of company / bidder:
 <i>Signature: Bidder</i>
	Name (in print):
..... <i>Signed on behalf of DTI</i>	Telephone number:
Name (in print):	Fax number:
Date:	Postal Address:

	Date:

SBD 5.1

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL
PROCUREMENT REGULATIONS 2001

PURCHASES

This preference form must form part of all bids invited. It contains general information and serves as a claim form for Historically Disadvantaged Individual (HDI) preference points as well as a summary for preference points claimed for attainment of other specified goals

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF EQUITY OWNERSHIP BY HISTORICALLY DISADVANTAGED INDIVIDUALS (HDIs), AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2001.

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 R500 000; and
- the 90/10 system for requirements with a Rand value above R500 000.

1.2 The value of this bid is estimated to exceed/not exceed R500 000 and therefore the.....system shall be applicable.

1.3 Preference points for this bid shall be awarded for:

- (a) Price; and
- (b) Specific contract participation goals, as specified in the attached forms.

1.3.1 The points for this bid are allocated as follows:

	POINTS
1.3.1.1 PRICE
1.3.1.2 SPECIFIC CONTRACT PARTICIPATION GOALS	
(a) Historically Disadvantaged Individuals:	
(i) who had no franchise in national elections before the 1983 and 1993 Constitutions
(ii) who is a female
(iii) who has a disability
(b) Other specific goals (goals of the RDP- plus local manufacture)	
(i)
(ii)
(iii)
(iv)
Total points for Price, HDIs and other RDP-goals must not exceed	100

Separate Preference Points Claim Forms will be used for the promotion of the specific goals for which points have been allocated in paragraph 1.3.1.2 (b) above.

1.4 Failure on the part of a bidder to fill in and/or to sign this form may be interpreted to mean that preference points are not claimed.

- 1.5. The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.
2. GENERAL DEFINITIONS
- 2.1 "Acceptable bid" means any bid which, in all respects, complies with the specifications and conditions of bid as set out in the bid document.
- 2.2 "Bid" means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods, works or services.
- 2.3 "Comparative price" means the price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration.
- 2.4 "Consortium or joint venture" means an association of persons for the purpose of combining their expertise, property, capital, efforts, skills and knowledge in an activity for the execution of a contract.
- 2.5 "Contract" means the agreement that results from the acceptance of a bid by an organ of state.
- 2.6 "Specific contract participation goals" means the goals as stipulated in the Preferential Procurement Regulations 2001.
- 2.6.1 In addition to above-mentioned goals, the Regulations [12.(1)] also make provision for organs of state to give particular consideration to procuring locally manufactured products.
- 2.7 "Control" means the possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous exercise of appropriate managerial authority and power in determining the policies and directing the operations of the business.
- 2.8 "Disability" means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being.
- 2.9 "Equity Ownership" means the percentage ownership and control, exercised by individuals within an enterprise.
- 2.10 "Historically Disadvantaged Individual (HDI)" means a South African citizen
- (1) who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No 110 of 1983) or the Constitution of the Republic of South Africa, 1993, (Act No 200 of 1993) ("the interim Constitution); and/or
 - (2) who is a female; and/or
 - (3) who has a disability;
- provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution, is deemed not to be a HDI;
- 2.11 "Management" means an activity inclusive of control and performed on a daily basis, by any person who is a principal executive officer of the company, by whatever name that person may be designated, and whether or not that person is a director.
- 2.12 "Owned" means having all the customary elements of ownership, including the right of decision-making and sharing all the risks and profits commensurate with the degree of ownership interests as demonstrated by an examination of the substance, rather than the form of ownership arrangements.
- 2.13 "Person" includes reference to a juristic person.

3

- 2.14 "Rand value" means the total estimated value of a contract in Rand denomination that is calculated at the time of bid invitations and includes all applicable taxes and excise duties.
- 2.15 "Small, Medium and Micro Enterprises (SMMEs) bears the same meaning assigned to this expression in the National Small Business Act, 1996 (No 102 of 1996).
- 2.16 "Sub-contracting" means the primary contractor's assigning or leasing or making out work to, or employing another person to support such primary contractor in the execution of part of a project in terms of the contract.
- 2.17 "Trust" means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person.
- 2.18 "Trustee" means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

3. ESTABLISHMENT OF HDI EQUITY OWNERSHIP IN AN ENTERPRISE

- 3.1 Equity ownership shall be equated to the percentage of an enterprise which is owned by individuals classified as HDIs, or in the case of a company, the percentage shares that are owned by individuals classified as HDIs, who are actively involved in the management and daily business operations of the enterprise and exercise control over the enterprise, commensurate with their degree of ownership.
- 3.2 Where individuals are not actively involved in the management and daily business operations and do not exercise control over the enterprise commensurate with their degree of ownership, equity ownership may not be claimed.

4. ADJUDICATION USING A POINT SYSTEM

- 4.1 The bidder obtaining the highest number of points will be awarded the contract.
- 4.2 Preference points shall be calculated after prices have been brought to a comparative basis.
- 4.3 Points scored will be rounded off to 2 decimal places.
- 4.4 In the event of equal points scored, the bid will be awarded to the bidder scoring the highest number of points for specified goals.

5. POINTS AWARDED FOR PRICE

5.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

80/20 or 90/10

$$P_s = 80 \left(1 - \frac{P_t - P_{min}}{P_{min}} \right) \quad \text{or} \quad P_s = 90 \left(1 - \frac{P_t - P_{min}}{P_{min}} \right)$$

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Where

Ps = Points scored for price of bid under consideration

Pt = Rand value of bid under consideration

Pmin = Rand value of lowest acceptable bid

6. Points awarded for historically disadvantaged individuals

6.1 In terms of Regulation 13 (2) preference points for HDI's are calculated on their percentage shareholding in a business, provided that they are actively involved in and exercise control over the enterprise. The following formula is prescribed in Regulation 13 (5) (c):

$$NEP = NOP \times \frac{EP}{100}$$

Where

NEP = Points awarded for equity ownership by an HDI

NOP = The maximum number of points awarded for equity ownership by an HDI in that specific category

EP = The percentage of equity ownership by an HDI within the enterprise or business, determined in accordance with the definition of HDI's.

6.2 Equity claims for a trust will only be allowed in respect of those persons who are both trustees and beneficiaries and who are actively involved in the management of the trust

6.3 Documentation to substantiate the validity of the credentials of the trustees contemplated above must be submitted.

6.4 Listed companies and tertiary institutions do not qualify for HDI preference points.

6.5 A consortium or joint venture may, based on the percentage of the contract value managed or executed by their HDI-members, be entitled to preference points in respect of an HDI.

6.6 A person awarded a contract as a result of preference for contracting with, or providing equity ownership to an HDI, may not subcontract more than 25% of the value of the contract to a person who is not an HDI or does not qualify for the same number or more preference for equity ownership.

7. BID DECLARATION

7.1 Bidders who claim points in respect of equity ownership must complete the Bid Declaration at the end of this form.

8. EQUITY OWNERSHIP CLAIMED IN TERMS OF PARAGRAPH 2.10 ABOVE. POINTS TO BE CALCULATED FROM INFORMATION FURNISHED IN PARAGRAPH 9.8.

Ownership	Percentage owned	Points claimed
8.1 Equity ownership by persons who had no franchise in the national elections	%
8.2 Equity ownership by women	%
8.3 Equity ownership by disabled persons*	%

*If points are claimed for disabled persons, indicate nature of impairment (see paragraph 2.8 above)

.....



9 DECLARATION WITH REGARD TO EQUITY

9.1 Name of firm

9.2 VAT registration number

9.3 Company registration number

9.4 TYPE OF FIRM

- Partnership
 - One person business/sole trader
 - Close corporation
 - Company
 - (Pty) Limited
- [TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

9.6 COMPANY CLASSIFICATION

- Manufacturer
 - Supplier
 - Professional service provider
 - Other service providers, e.g. transporter, etc.
- [TICK APPLICABLE BOX]

9.7 TOTAL NUMBER OF YEARS THE FIRM HAS BEEN IN BUSINESS?

9.8 List all Shareholders by Name, Position, Identity Number, Citizenship, HDI status and ownership, as relevant. Information to be used to calculate the points claimed in paragraph 8.

Name	Date/Position occupied in Enterprise	ID Number	Date RSA Citizenship obtained	* HDI Status			% of business enterpris-owned
				No franchise prior to elections	Women	Disabled	

*Indicate YES or NO

9.9 Consortium / Joint Venture

9.9.1 In the event that preference points are claimed for HDI members by consortia / joint ventures, the following information must be furnished in order to be entitled to the points claimed in respect of the HDI member:

Name of HDI member (to be consistent with paragraph 9.8)	Percentage (%) of the contract value managed or executed by the HDI member

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9.10 I/we, the undersigned, who warrants that he/she is duly authorised to do so on behalf of the firm certify that points claimed, based on the equity ownership, indicated in paragraph 8 of the foregoing certificate, qualifies the firm for the preference(s) shown and I / we acknowledge that:

- (i) The information furnished is true and correct.
- (ii) The Equity ownership claimed is in accordance with the General Conditions as indicated in paragraph 1 of this form.
- (iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 8, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct.
- (iv) If the claims are found to be incorrect, the purchaser may, in addition to any other remedy it may have -
 - (a) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (b) 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;
 - (c) impose a financial penalty more severe than the theoretical financial preference associated with the claim which was made in the bid; and

WITNESSES:

1.

2.

.....
SIGNATURE(S) OF BIDDER(S)
.....

DATE:.....

ADDRESS:.....

.....

.....

.....



Annexure O: PPP Agreement Checklist

As required under paragraph 3.14, the Bidder is required to consider this signature checklist as part of its RFP Bid.

Capitalised terms utilised in this signature checklist shall have the same meaning as ascribed thereto in the RFP, unless the context indicates otherwise.

1. Execution by the parties thereto of the following agreements, and receipt by the Department Representative (as defined in the PPP Agreement) of notarial copies thereof:
 - 1.1. Shareholders Agreement between or amongst the Shareholders;
 - 1.2. the [Shareholders Agreements/Joint Venture Agreements] between or amongst the [Shareholders/members] of the [Subcontractors] [details of each to be inserted];
 - 1.3. the Subcontracts [details of each subcontract to be inserted];
 - 1.4. the Financing Agreements;
 - 1.5. the DBSA Agreements;
 - 1.6. all documents creating or purporting to create security interest granted by the Private Party or any Subcontractor in respect of the Financing Agreements and any obligations which relate to the obligations under the Financing Agreements and which are documents referred to as conditions precedent to drawdown under the Financing Agreements;
 - 1.7. all documents creating or purporting to create security interest granted by the Private Party or any Subcontractor in respect of the DBSA Agreements and any obligations which relate to the obligations under the DBSA Agreements and which are documents referred to as conditions precedent to drawdown under the DBSA Agreements;
 - 1.8. the Independent Certifier Agreement;
 - 1.9. the Section 37(2) Undertakings by each of the Private Party and the Subcontractors;
 - 1.10. the Finance Direct Agreement between the Department, the Private Party and the Lenders (or their nominated agent).

2. Receipt by the Department of:
 - 2.1. a notarially certified copy of the Private Party's memorandum and articles of association as at the Signature Date;
 - 2.2. notarial copies of any powers of attorney, resolutions or other documents evidencing the authority of any person who has signed the PPP Agreement and/or the other documents specified in this PPP Agreement, on behalf of the Private Party, together with specimen signatures of such persons authenticated in a manner satisfactory to the Department;
 - 2.3. notarial copies of board resolutions of the Private Party authorising its entry into this PPP Agreement;
 - 2.4. National Treasury approval III as required under regulation of the National Treasury Regulations published in Government Notice R740 in Government Gazette No 2346 of 25 May 2002, and amended by General Notice 2012 of Government Gazette 25229 of 28 July 2003 and General Notice 225 of Government Gazette 27388 of 15 March 2005, pursuant to the PFMA.
 - 2.5. an original audit report on the Base Case Financial Model from the auditor of that model;
 - 2.6. a certified copy of the agreed Base Case Financial Model, both in hard format as well as a read-only CD Rom;
 - 2.7. copies of the insurance policies required in terms of clause 28 (*Insurance*) of the PPP Agreement and as set out in Schedule 15 (*Insurances*);
 - 2.8. a certificate from the Lenders certifying that all the Financing Agreements having become unconditional and are in force, except in so far as it is a condition under any such Financing Agreement that the PPP Agreement is unconditional and in force.
 - 2.9. a certificate from the DBSA certifying that all the DBSA Agreements having become unconditional and are in force, except in so far as it is a condition under any such DBSA Agreement that the PPP Agreement is unconditional and in force.

Annexure P: PPP Agreement

[Attached as a separate document]