

**APPENDIX G**  
**TERMS OF REFERENCE**

**THE DEPARTMENT OF LABOUR – COMPENSATION FUND**

## **TERMS OF REFERENCE**

### **Request for Proposals for a Turnaround the Compensation Fund with a view to modernisation its operations in line with meeting its Service Delivery expectations with improved governance and controls**

#### **1. PURPOSE**

The Compensation Fund (CF) invites proposals from suitably qualified service providers to review of the business elements of the compensation fund with a view to restructuring its operations in line with meeting its service delivery expectations with improved governance and controls.

#### **2. BACKGROUND**

- 2.1 The mandate of the Compensation Fund is derived from Section 27 (1)(c) of the Constitution of the Republic of South Africa. In terms of this act, all South Africans have a right to social security. The Compensation Fund is then mandated to provide social security to all injured and diseased employees.

The Compensation Fund is a public entity of the Department of Labour. The Fund administers the Compensation for Occupational Injuries and Diseases Act no. 130/1993 as amended by the COIDA 61/1997.

The main objective of the Act is to provide compensation for disablement caused by occupational injuries or diseases sustained or contracted by employees, or for death resulting from such injuries or diseases, and provide for matters connected therewith.

The Fund generates its revenue from levies paid by employers, which consists mainly of annual assessments paid by registered employers on a basis of a percentage or fixed rate of the annual earnings of their employees. The COID Act, however, makes provision for a minimum assessment to ensure that the assessment is not less than the administration costs incurred.

#### **The operations of the Compensation Fund are also affected by the following legislation:**

- Public Finance Management Act, of 1999 as amended
- Occupational Health and Safety Act, 1993
- NEDLAC Act, 1994
- Labour Relations Act, 1995, as amended
- Basic Conditions of Employment Act, 1997, as amended
- Employment Equity Act, 1998
- Skills Development Act, 1998 as amended
- Unemployment Insurance Act, 2001 as amended
- Unemployment Insurance Contributions Act, 2002

- 2.2 The CF has been fraught with not meeting its service delivery expectations combined with significant delays in turnaround times on service elements which are under its

direct control. These have direct impacts to the citizens of our country, especially those citizens who are in dire need of assistance at the time when they are the most vulnerable. In addition, certain output documents by the CF form a critical element of tender compliance within public sector procurement, and delays in issuing these certificates have a direct impact on the business sector and the economy as a whole.

2.3 The poor audit reports, management reports and audit findings do not support the existence of good management of the resources deployed, and the enforcement of governance and controls, which may further be predicated by failures in business processes, systems and staff skills and competence. This necessitates a review of the entire value chain in meeting the service delivery obligations of the CF.

2.4 Some of the core issues identified includes the following:

- **People**
  - Lack of accountability by managers and supervisors
  - No service orientation culture and low staff motivation
  - Fear of change and a preference of doing what is known
  - Misplacement and capacity to perform job tasks Lack of efficient performance management and monitoring
  
- **Business Process**
  - Highly segmented areas of operations with no workflows or integration
  - Outdated business processes based on manual workflows with numerous non value and duplicated tasks
  - Processes are not aligned to systems and are not structured for effective performance
  - Misalignment of business processes to system specification and design
  - No Business intelligence for strategic and operations exception reporting
  - Non-compliance to best practice medical administration
  
- **Information System**
  - No electronic registration or submission of claims
  - The alignment of medical classification of injury, diseases, functioning and health and allocation of pharmaceuticals to treatment codes is required. ICD10, Nappi codes link to CPT4 not utilised to assist with identifying and limiting claim liability and case management, as included in the blueprint
  - Backlogs in claims processing. Poor turn-around time on settlement of claims
  - Lack of capacity of the electronic document management system- Kofax
  - No effective reporting or exception reporting mechanisms
  - No reporting functionalities with large reliance on service provider
  - No automation of standard rules to speed up processing
  - No automated forms as included in the blueprint
  - System does not allow bulk upload of high volumes of accounts submitted by service providers
  - The system does not provide remittance advices – service providers cannot reconcile their payments received to the accounts submitted

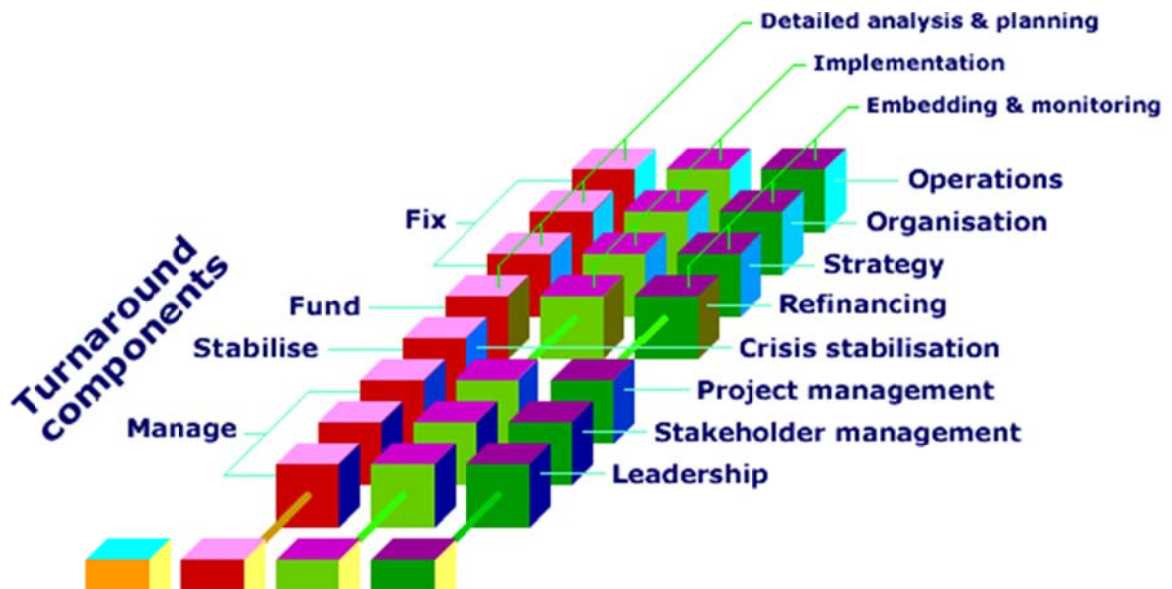
- Accounts are paid to the bank by line item, instead of being rolled up into one payment resulting in significantly higher bank charges
- No Risk management system and no Access control system

### 3. SCOPE OF WORK

The overall goal of turnaround strategy is to return an underperforming CF to normal in terms of acceptable levels of service delivery, financial health and administration.

To achieve these objectives, the CF turnaround strategy must reverse causes of distress, resolve the financial crisis, achieve a rapid improvement in financial performance, regain stakeholder support, and overcome internal constraints and unfavorable characteristics identified.

Turnaround approach should at least include the following components which are:- stabilizing the fund, enhancing and optimizing the CF's (people, processes and systems) in terms of the turnaround model indicated below.



#### 3.1 Components of turnaround strategy

##### 3.1.1 Managing the turnaround

The enabling components to manage the turnaround are turnaround leadership, stakeholder management, and turnaround project management.

##### 3.1.2 Stabilising the business and the financial management

The CF needs to be stabilized to ensure the short-term future of the business, introducing predictability and ensuring legal and fiduciary compliance (PFMA).

### 3.1.3 Fixing the distressed Compensation Fund

The underperforming or distressed public entity needs to be fixed in strategic, organisational and operational terms.

#### 3.1.4 The successful service provider will be required to:

- **Devise and Implement a Remedial Plan to remedy the interim crisis :- (Business unusual plan of action)**
  - Identify the root cause or contributory factors to the issues and weaknesses identified in the business process
  - Perform Root Cause Analysis on finance, fraud and risk administration and management
  - Perform an diagnostic review of people and systems to identify weaknesses to establish controls
  - Develop mitigating action plan aimed to resolving, eliminating, or minimising the incidence of the identified issues, weakness and lack of controls
  
- **Develop, design and implement the turnaround plan for the CF (Future model for the CF):-**
  - Diagnostic of the alignment of the strategic objectives of the CF against its shareholders mandate and objectives
  - Perform a legal review with the aim enhance service delivery. The legal review must be included in the turnaround plan.
  - Map and design Business Process for the Fund which includes both business processes for core and support functions of the CF
- **Develop and implement a change management program addressing all elements of the program**
  - Provide best practice benchmark study to the CF
  - Develop, Review and Update Governance Policy and Procedures as may be required
  - Facilitate the turnaround leadership
  - Develop, design and implement the turnaround approach and plan for the CF
  - Implement the turnaround plan for the CF
  
- **People**
  - Review Employment Contracts, Score Cards and Performance management, and redefine these as may be necessary
  - Develop appropriate organisational structure
  - Develop job descriptions covering posts in the revised organisational structure
  - Perform a complete skills audit across all levels of staff and evaluate current skills against the skills required to perform the job requirements
  - Evaluate suitability of current staff and perform a best fit placement of staff into positions where they are best trained and able to perform in accordance with the organisation's goals.
  - Manage the implementation of the new Human resource organisational structure in accordance with best HR practice

- **Business Processes and Systems**
  - Review, Map, Optimise and Define all Business Processes across the entire value chain
  - Review, Map, Optimise and Define all Systems Processes to close the gaps in governance and controls across the entire value chain
  - Develop mitigation strategies for work segmentation, Risks and Controls
  - Develop segmented workflows to optimise employee load balancing and turnaround times on tasks and service delivery elements
  - Business systems and architecture review and make recommendations for optimisation
  - Review, design and implement business intelligent information reports and advise a business specification to implement BI
  - Develop Dashboards and Radars to facilitate good and timeous management information to feed into effective management processes

### **3.1.5 Project Office**

Establishment of a Project Office to manage projects relating to the scope of work and delivery of the turnaround plan and to co-ordinate activities of the remedial and turnaround implementation plan at a location determined by the Director General of Labour.

Resource the project office with resources to manage both the remedial and modernisation of the CF.

### **3.1.6 Actuarial and Audit Professional Services (remedial plan)**

An analysis of the Compensation Fund conducted provides for the estimation of ± 600 000 claims that has remained unpaid for a number of years. The objective of the assignment is to conduct an actuarial valuation to determine the value of these claims as well as the impact thereof on the financial reserves of the Fund.

A comprehensive valuation report highlighting the work carried out, the methodology used and the findings and recommendations arising from the valuation should be produced.

The audit is an essential component of the diagnostic study which aims to assess the finance capacity of the C F.

#### **Key deliverables will be to:-**

- a. compile or update the Fund's action plan in response to the AG findings and Public Protector reports,
- b. conduct priority assessment of the action required to achieve the best results within project timeframes.
- c. allocate responsibilities with timelines for the priority areas identified following the review and assessment.

- d. make recommendations that are aimed at improving the financial reporting process going forward.
- e. design and implement general financial management in terms of GRAAP and PFMA
- f. establish controls and procedures that are aimed to mitigate and eliminate risk and fraud.
- g. review and optimise business processes to ultimately ensure that all amounts received by the Fund in terms of PFMA are receipted, completely, timely and accurately deposited and that all monies transferred and paid by the Fund, for claims and other Fund expenditure are accurately, efficiently and appropriately utilized and substantiated.

### **3.1.7 Output Required**

The project deliverables will be to manage the implementation of the turnaround of the CF in terms of the scope of work indicated under paragraph 3.

## **4. METHODOLOGY**

- 4.1. The service provider will be required to supply a methodology statement detailing the steps that will be employed to complete the project work, a detailed costing and the time frames in which the project will be completed in line with the expected completion date.

The methodology statement should reflect the following aspects which would be used as criteria for functionality during assessment of the submission:

- (a) Proof and expertise must be demonstrated of a successfully turnaround of a company/ public entity/ government department.
- (b) Provide the approach (how) your company will deliver the scope of work outlined under paragraph 3. Provide reference sites.
- (c) Proof of expertise and experience in the core project team covering business management, governance and audit compliance with IFRS, PFMA and Treasury Regulations, Monitoring & Evaluation, Data Management, Software Systems Design, Configuration and Implementation across Wide Area Networks;
- (d) Technical resource skills and experience in:-
  - Project and programme management,
  - Auditing,
  - Accounting & Governance in public sector, (PFMA and GRAP)
  - Fund and portfolio management
  - Pension fund management
  - Revenue management
  - Financial modelling
  - Risk management
  - Change management
  - All aspects of Human Resource management,

- Organisational development
  - Legal Services
  - Business analytical skills
  - Business process re-engineering
  - At least 1 team leader to be qualified actuary, 10 years of experience in relevant actuarial work and supported by a Chartered Accountant with experience in internal audit work
  - Experts in actuarial science (bachelor's degree in actuarial science, 5 years of experience in pension fund evaluations and determination of fund provisions)
- (e) Supply CV's and Company Profile;
- (f) Service Provider Capacity must relevant to the Project Scope and Deliverables.
- (g) A well documented, detailed proposed plan of action to achieve the objectives of the project, highlighting:
- ✓ Critical skills and competences required
  - ✓ the deployment of resources including equipment
  - ✓ stakeholder engagement
  - ✓ transfer of required skills to CF's relevant officials
  - ✓ development and documentation of business processes
  - ✓ quality assurance; and critical time frames
  - ✓ hand-over procedure of the close-out project report.
- (h) Knowledge and understanding of the:
- ✓ public sector regulatory environment
  - ✓ business process re-engineering
  - ✓ Human Resource Management and Interventions required
  - ✓ Government's empowerment initiatives
  - ✓ Public fund and administration and management
- (i) The service provider must have the necessary equipment and staff to perform the project work with a core team based full time onsite at designated offices in Pretoria assigned to the PMO.

## 5. TIME FRAME

The project will be completed based on the project plan that will be developed with the successful bidder. However, it is estimated that the project is estimated to be completed in 24 months from the date of commencement.

Bidders are required to provide a high level project plan in their bid. The successful bidder will be required to provide for the approval of the CF, a **detailed** project execution plan and project management plan within two weeks (2) of the commencement of the project.

## 6. PERFORMANCE MEASURES & PAYMENT MILESTONES



The service provider (at its own cost) must prepare and submit a proposal statement outlining, among others, the details of the deliverables and the costing thereof in order to manage the programme. Performance requirements and milestones will be devised in consultation with the successful bidder. These will then be used to manage the performance of the successful Service Provider, and payment milestones.

## **7. REPORTING**

- 7.1 Reporting will be to the Director General of Labour.
- 7.2 The following project governance documentation and sign off/approvals will only be approved by the Director General of Labour (Project Sponsor) or his delegated representative:-
- Diagnostic report
  - Business specifications,
  - Solution design
  - Actuarial evaluation report
  - Audit report
  - Status reports on AG findings with support information
  - New business and operating model designs,
  - Business processes,
  - Risk management and governance structures,
  - Finance models for the fund,
  - Re-organisations structures,
  - Quality assurance reports,
  - Test plans
  - Cut over plans (migration plans)
  - Go live acceptance
  - Key milestones delivered within the remedial and turnaround plans,
- 7.3 Project reporting will take place at the Department of Labour and /or CF's Head Office on status, progress, identified problems encountered and intervention measures required to stay within time, budget and quality.
- 7.4 A comprehensive progress report accompanied by the minutes of these briefings will be compiled and submitted to the Project Manager, designated by the Director General of Labour, within 5 business days of each briefing.

## **8. COSTING**

- 8.1 The service provider must provide a comprehensive project costing outlining the following:
- Detailed costing showing items and categories of costs / expenditure

- The calculation of rates charged and / or a breakdown of amounts against all the envisaged consulting time
- 8.2. All amounts stated (for goods, products and / or services to be rendered or to be developed) must be clearly stated showing the net amount excluding VAT, the VAT charged, and the Full Contract amount inclusive of VAT.
- 8.3 All subsistence, travel and accommodation costs for the staff engaged in the fieldwork of the project shall be approved by both the CF's designated project manager (within delegation of authority) and the Service Provider's Project Manager in accordance with a project plan approved by the Director General of Labour.

Subsistence, travel and accommodation costs shall be treated as a pass through cost at rates which are applicable to similar expenditure that is duly authorised.

These subsistence, travel and accommodation costs for the entire project team will be invoiced to the CF on a monthly basis in arrears, accompanied by all substantiating supporting documentation required by the CF.

The following minimum standards shall apply to these pass through costs, but not limited to:

**Road Travel:**

at the Department of Transport's monthly published rate per kilometre applicable to the vehicle, and shall be calculated from the service providers office to the offices (national or Regional) of the CF and /or Department of Labour.

**Toll Fees:** at the cost charged for passage through a manned or unmanned toll station as published on the respective tolling authority's website

**Air Travel:** at the cost of Economy Class return tickets

**Accommodation:** at the cost of a minimum on a 3 star or equivalent accommodation /cost

**Subsistence Allowances:** at the rate applicable to CF travel and subsistence policy.

**9. MONITORING PROGRESS ON THE PROJECT**

The CF's Project Manager or his duly appointed representative will be responsible for regular and day-to-day management of the project's progress with the service provider.

The Service Provider's Project Manager and / or Specialist Discipline Team Leads may be required to conduct presentations or workshops as the project unfolds or as may be expedient delivery of key tasks and milestones of the project.

## **10. CONTINUITY AND PROFILE OF SENIOR STAFF ON THE PROJECT**

The project shall at all times be managed and supervised by a senior and competent Programme Manager appointed and provided by the service provider. The core team leads may only be changed in consultation and agreement with the CF's Project Manager and approval by the Project sponsor.

## **11. CONDITIONS OF PROPOSAL**

11.1. The Proposal must include:

- Methodology / Approach covering issues captured under 3 and 4 above
- CV's of Key Team Members
- A High Level Project Plan
- A detailed Project Costing
- Submission of all required compliance documentation
- Provision to meet with and / or brief CF's management team on a regular basis

11.2 During the Bid Evaluation Stage, Service providers may be required to make presentations on their proposal within twenty four (24) hours of notification, if required to do so by CF.

## **12. CONFIDENTIALITY**

12.1. All information generated, communication produced, and data acquired, and any other material produced under the auspices of this project, remains the intellectual property of CF.

12.2. The service provider will be bound by the same clause of confidentiality and code of ethics as applicable to officials of the public service.

## **13. INDEMNITY**

13.1. CF will not be held responsible for any costs incurred by the bidder/s in the preparation and submission of the bids.

13.2. CF is not bound to select any of the firms submitting proposals, and reserves the right not to award the contract to the bidder with the lowest bidding price, as well as to renegotiate the bid of the preferred bidder.

## **14. PAYMENT TERMS**

14.1. CF undertakes to pay all verified and valid claims for work done to its satisfaction upon presentation of a substantiated claim / invoice. No payment will be made where there is outstanding information / work and incorrect information provided by the service provider.

14.2 The Bidder must propose payment terms in accordance with deliverables and milestones, which the CF reserves the right to negotiate with the successful bidder should this be deemed to be necessary.

14.2 All payments will be linked to delivery of milestones with supporting documents and all milestones and payments will be approved by the Director General of Labour (Project Sponsor).

**5. ADDITIONAL INFORMATION ON PROPOSAL**

The service provider must provide details of staffing, highlighting training and development policies, with specific reference to affirmative action policies and initiatives.

**16. COMPULSORY COMPLIANCE DOCUMENTATION**

- a) Certified copies of Business Registration Documents, Shareholding Certificates, and Identity Documents of the Shareholders
- b) Certified copy of the BEE Rating Certificate
- c) Original valid Tax Clearance Certificate
- d) Certified copy(s) of Joint Venture / Consortium Agreement (if applicable)
- e) Certified copy of latest Audited Financial Statements
- f) Proof of Professional Registrations
- g) Details of Professional Indemnity insurance;
- h) Financial health and reputation of the firm (enclose audited accounts for the last 3 years);
- i) References of similar work conducted;
- j) List of clients who could be contacted.

**17. RESPONSIVENESS CRITERIA**

For a bid to be considered responsive, the bidder / service provider must satisfy the following mandatory requirements as per the RFP documents. Failure to meet these mandatory requirements will result in the bid being considered non responsive, and the bid will be disqualified. Bidders must use the template below in their response document.

Item	Description	Comply?		Remarks
		Yes	No	
1	Documentation per Paragraph 16			
2	The Core Project Team must include a qualified auditor registered with SAICA.			

Item	Description	Comply?		Remarks
3	The Bidder must attend the compulsory briefing session, and submit the signed proof of attendance with their bid proposal.			
4	Pricing information must be attached as directed in accordance with a 2 envelope system, with Envelope 1 containing the Technical Proposal, and Envelope 2 containing the Financial Proposal.			
5	Bidders must have proven credentials in assessing and adjudicating applications for benefits of similar clients or applications in similar environments.			

## 18. EVALUATION CRITERIA

### TECHNICAL EVALUATION – ENVELOPE 1

- 18.1. Evaluation is in two phases and will be based on a point system. The following are the maximum number of points that can be awarded for each category, and the threshold score for each category (if applicable).
- 18.2. The Technical proposal will be evaluated out of 100 % points with a Threshold Score of 80 %.
- 18.3 **Only submissions that pass the Technical Threshold will continue onto the Financial and BEE evaluation.**
- 18.4 **Pricing information must be attached as directed in accordance with a 2 envelope system, with Envelope 1 containing the Technical Proposal, and Envelope 2 containing the Financial Proposal.** Non-compliance to this provision will also render you bid unresponsive and will be dis-qualified

The 90/10 Principle for Bid Evaluation will apply as reflected in the table below.

Evaluation Category	Maximum Points	Threshold Score	Weighted Score
Technical Proposal	1890	<b>1512</b>	100%
<b>Total Score</b>	<b>1890</b>	<b>= 80 % out of 100 %</b>	<b>100%</b>

Bidders who score less than 80 % of the 100 % points of the Functionality Points available for their Technical Proposal, will be considered and materially unresponsive, and will not be evaluated further, having being considered to not meet the minimum threshold score.

### 18.5 FINANCIAL – ENVELOPE 2

Evaluation Category	Maximum Points	Threshold Score	Weighted Score
Price	90	-	90
<b>Total Score</b>	<b>90</b>	<b>-</b>	<b>90</b>

It is the prerogative of the CF to or not to award to the lowest prices in terms of the Supply chain framework and national treasury practice notes, if any.

### 18.6 BEE RATING

Evaluation Category	Maximum Points	Threshold Score	Weighted Score
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BEE certification	10	-	10
<b>Total Score</b>	<b>10</b>	<b>-</b>	<b>10</b>

**18.7 The CF reserves the right to exclude companies and or persons from the bidding process in terms of good governance outlined under Treasury Regulations 16.A.8.4 and 19.A.9.**

**18.8 Organisation, companies and / or persons who have worked and are currently working within the operations for past 4 consecutive years of the CF from 1 April 2008 till to date, will be excluded from the bidding process and bids will be disqualified.**

### **18.9 .ELIMINATION OF PROPOSALS ON GROUNDS OF FUNCTIONALITY**

18.9.1 Bids that score less than 80% of the 100% available for functionality will be eliminated from further consideration. Points will therefore not be awarded for their cost proposals or for B-BBEE Status Level of Contribution

18.9.2 The percentage scored for functionality should be calculated as follows:

Each panel member shall award values for each individual criterion on a score sheet. The value scored for each criterion shall be multiplied with the specified weighting for the relevant criterion to obtain the marks scored for the various criteria. These marks should be added to obtain the total score. The following formula should then be used to convert the total score to a percentage for functionality:

$$Ps = \frac{So}{MS} \times AP$$

#### **Where**

Ps = percentage scored for functionality by bid/proposal under consideration

So = total score of bid/proposal under consideration

Ms = maximum possible score

Ap = percentage allocated for functionality

The percentages of each panel member shall be added together and divided by the number of panel members to establish the average percentage obtained by each individual bidder for functionality.

After calculation of the percentage for functionality, the prices of all bids that obtained the minimum score for functionality should be taken into consideration.

### **18.9.3 AWARDING OF PREFERENCES POINTS**

Points for B-BBEE Status Level of Contribution will be awarded according to the table indicated in the preference points claim form(s).

#### **18.9.4 COMBINING PRICE AND PREFERENCE POINTS**

The B-BBEE Status Level of Contribution marks for each bid will now be added to the price points for that bid.

The Evaluation Committee may recommend that the contract be awarded to the bidder obtaining the highest aggregate mark as determined or to a lower scoring bid based on firm, verifiable and justifiable grounds.

**It is the prerogative of the CF to or not to award to the lowest prices in terms of the Supply chain framework and national treasury practice notes, if any.**

#### **18.9.5 ADJUDICATION OF BID**

The Adjudication Committee will consider the recommendations and the Director General of Labour will make the final award.

The successful bidder will usually be the service provider scoring the highest number of points or it may be a lower scoring bid based on firm, verifiable and justifiable grounds or no award at all.

### **19. CF's RIGHTS RESERVED AND CONTRACT**

The CF reserves the right to exclude companies and or persons from the bidding process in terms of good governance outlined under Treasury Regulations 16.A.8.4 and 19.A.9.

Organisation, companies and / or persons who have worked and are currently working within the operations of the CF **for past 4 consecutive years of the CF from 1 April 2008 to** , will be excluded from the bidding process and bids will be disqualified on the basis of having an unfair advantage over other potential bidders.

The CF reserves the right to cancel this bid at any time prior to the award of the bid, which right shall be exercised at it's sole discretion. In such event of cancellation, the CF will not be accountable for any costs which bidders may have expended on the bid process.

The CF will enter into a contract with the successful bidder in accordance with the Standard General Conditions of Contract in use by the National Treasury for such government contracts, which it shall at it's sole discretion, amend in accordance with the Technical Requirements of the Bid and the successful bidder's response thereto, in order to effectively govern the successful delivery of the products and services purchased under this bid process.

### **20. Bidder's Presentation & Clarification**

The CF reserves the right to solicit clarification to any material presented in a Bidder's Proposal Pack, but is not obliged to do so.

### **21. Annexures**

1. Standard Supply Chain Documentation for completion by Bidders
2. Annexure A – General Conditions Of Contract
3. The CF office infrastructure within SA.