



PROVINCIAL ADMINISTRATION: WESTERN CAPE
DEPARTMENT OF TRANSPORT AND PUBLIC WORKS
BRANCH: PUBLIC WORKS

CONTRACTOR'S RIGHTS & OBLIGATIONS

TENDERS ARE RECOMMENDED BY A TENDER COMMITTEE CONSISTING OF FOUR OR MORE MEMBERS. TENDERS ARE SUBJECT TO AN EVALUATION PROCESS IN RESPECT OF COMPLIANCE TO SPECIFICATIONS AND IN TERMS OF THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000, BEFORE IT IS RECOMMENDED

OBLIGATIONS

1. Within **twenty-one days** of the date of acceptance of his tender the Contractor is required to forward his priced Bills of Quantities.
2. The Contractor is to provide **everything necessary** for the proper execution of the Works.
3. Unless there is an apparent or obvious error in an Order in Writing, the Contractor must at all times proceed to act on such **Order in Writing**.
4. The Contractor or his representative must be identified in writing and is required to be **constantly on site**.
5. The Contractor must only employ persons that are **efficient** and of good character on departmental sites.
6. When requested, the Contractor must furnish evidence that material used and work done is in accordance with the specifications as described in the Contract.
7. The Contractor must during the currency of the Contract conform to the provisions of any Act of Parliament and to the **regulations and by-laws of local or other authorities** relating to the Works.
8. The Contractor is responsible for the **setting out of the Works** and must rectify at his own cost any error in the work that may arise therefrom.
9. The Contractor must give **due notice** whenever a portion of the Works is intended to be covered with earth or any other covering.

10. The Contractor bears the **full risk of damage** to and/or destruction of the Works by whatever cause during construction of the Works owing to any act or negligence.
11. The Contractor is **liable for any liability, loss, claim or proceedings** consequent upon personal injuries to or the death of any person during the execution of the Works.
12. The Contractor is liable for any liability, loss, claim or proceedings consequent upon personal injuries to or the death of any person during the execution of the Works.
13. In order to be eligible to receive a First Delivery Certificate, the Contractor **must deliver** to the Departmental Representative/Agent the Works and premises, which **must be complete and in a clean and perfect state**, internally and externally.
14. The Contractor must rectify the defects or faults **within the period stipulated by the Department** for the completion of the Works. The Department has the right to recover from the Contractor any damages incurred as a result of the Contractor's failure to rectify such defects.
15. An amount hereinafter referred to as **retention money will be retained from each progress payment**.
16. The Contractor is in default if he –
 - (a) fails to commence with the works as required;
 - (b) fails to proceed with the Works with due diligence or to complete the Works within the contract period or any extension thereof;
 - (c) stops, abandons or suspends the Works before completion;
 - (d) fails to comply with any of the provisions set out in the Contract; or
 - (e) refuses or neglects to comply strictly with any of the conditions of this Contract or any instructions and/or Order in Writing given in terms of the Contract.

When the Contractor is in **default**, the Department may thereupon –

- (i) **cancel** the Contract and enter into a new contract of contracts by calling for tenders or otherwise with any other contractor or contractors for the completion of the Works or any part thereof, at such times and upon such terms as the Department may deem fit; and/or
- (ii) provide such number of men and/or purchases such material as the Department may deem fit to complete the Works.

RIGHTS

1. No claim or any addition or for any variation will be entertained unless the Representative/Agent ordered such addition or variation in writing. Objections, queries and claims with regard to Orders in Writing will only be entertained if they are lodged in writing with the Representative/Agent **within twenty-one days** of the date of the Order in Writing.
2. The contract period stated in the tender documents commences on the date of the **letter of acceptance** of the tender and includes all statutory and building industry holidays.
3. The Site must be handed over to the Contractor within **fourteen days** after he has complied with the conditions of tender relating to surety and the submission of priced Bills of Quantities, if applicable.
4. The Contractor is entitled to inform the Department in writing **within twenty-one days** of the cause of any delay which is outside the control of the Contractor and which would result in an extension of the contract period

stating the cause of delay and the period of extension applied for.

5. The Representative/Agent will issue a **First Delivery Certificate** when the Contractor delivers to the Representative/Agent the Works and premises, which must be complete, after which the surety will be released.
6. The Final Delivery Certificate will be issued **after three months from the date of the First Delivery Certificate**, provided that the defects that occurred during this period are rectified after such period of **three months**.
7. The Contractor must be **present on the Site** when notes and measurements are taken for the preparation of progress payment certificates and for the preparation of the final account.
 - (a) The Contractor is entitled to receive a **monthly progress payment**, which should be based on a progress payment certificate issued by the Representative/Agent. The amount stipulated for payment in such progress payment certificate should be due and payable to the Contractor **within twenty-one days** of the date of such certificate.
 - (b) Each progress payment is based on the value of the work which, in the opinion of the Representative/Agent, has been satisfactorily executed and the value of material on site.
8. After the completion of the Contract, a **final account** must be prepared by the Department. The giving full details of such objection, or fail to sign the final account, he will be considered to have accepted the final account. (Please refer to retention period.)



**ULAWULO LWEPHONDO LENTSHONA KOLONI
ISEBE LEZOTHUTHO NEMISEBENZI YAKWARHULUMENTE
ISETYANA LEZOTHUTHO
ILUNGelo LOMOKHI KUNYE NEMIMISELO**

KUPHAKANYISWA UKWENZIWA KWEETENDA YIKOMITI YETENDA ENAMALUNGU AMANE NANGAPHEZULU. EZI TENDA KULINDELEKE UKUBA ZIHLOLWE NGOKUBHEKISELELE KWINDIMA YOKUTHOBELA IMIGAQO KUNYE NENGXELO ENIKWAYO NANGOKOMTHETHO WESICWANGCISO SOMGAQO-NKQUBO WOKHETHO NGENTENGO PHAMBI KOKUBA UNIKWE INKXASO

IMIMISELO

1. Kwisithuba esiphakathi **kweentsuku ezingamashumi amabini ananye** yakuba yamkelwe itenda eyenziweyo kufuneka iKontraka idlulise ingxelo ngexabiso ekuthiwa yiBills of Quantities.
2. IKontraka kufuneka ithumele **yonke into efunekayo** kwindawo efanelekileyo nesebenzana neetenda kwicandelo lezeMisebenzi.
3. ngaphandle kokuba kubekho impazamo ecacileyo kuMyalelo oBhaliweyo, iKontraka kufuneka ithi ngalo lonke ixesha iqhube isebenza **ngokoMyalelo oBhaliweyo**
4. IKontraka okanye ummeli wayo kufuneka aziswe ngembalelwano ukuba kulindeleke ukuba **asoloko ebonakala apha kwisiza**.

5. IKontraka kufuneka iqeshe abantu **abakhutheleyo** nabokhekileyo ngokuziphatha ngokubhekiselele kwiziza zeSebe
6. IKontraka iya kunika **ubungqina** bokuba izixhobo ezisetyenzisiweyo kwanomsebenzi owenziweyo uhambelana nengxelo enikiweyo njengoko ixeliwe kwiSivumelwano, oko ikwenza xa kucelwe ukuba yenjenjalo.
7. IKontraka kufuneka ithi ngezi xesha sisasebenza isivumelwano ithobele imiqathango yawo nawuphi na uMthetho wePalamente, ithobele **nemimiselelo kunye nemithetho-yomasipala wenqila okanye eyelinye igunya** eliphathelelene necandelo lezeMisebenzi.
8. IKontraka inoxanduva **lokuyihlela iMisebenzi** kwanokulungisa iindleko zayo kuyo nayiphi na impazamo ethe yenzeka kumsebenzi obusenziwa.
9. IKontraka kufuneka inike **isaziso sokuba igqibile** ukusebenza kwindawo ethile qho kulo ndawo icandelo lezeMisebenzi lijonge ukuba igangathwe ngomhlaba nokuba kungayiphi na enye into.
10. IKontraka iya **kujongana nengxaki ngokupheleleyo** ukuba kuye kwakho nto yonakalayo kwi nase/okanye ekudlikeni kwezinto zecandelo lezeMisebenzi ngenxa yaso nasiphi na isenzo okanye ukungabikho kwenkathalo.
11. IKontraka iya **kuphendula ngayo nangayiphi na intlawulo, okanye ilahleko** ngexesha kusetyenzwa okanye ibango kungenjalo inkqubo etandela ukonzakala komntu okanye ukufa kwakhe nawuphi na umntu
12. IKontraka iya **kuphendula ngelahleko, ibango** okanye inkqubo elandela ukulahleka okanye ukutshatyalaliswa kwayo nayiphi na impahla enokuphakanyiswa nokuba ayiphakanyiswa kungenjalo impahla yomntu ngexesha kusetyenzwayo, ngenxa yaso nasiphi na isenzo okanye ukungabikho kwenkathalo
13. Ukuze ifumane iSinqinisekiso sokuSebenza esiPhambili, iKontraka kufuneka **iye kunika ingxelo** kuMmeli/Qumrhu lezeMisebenzi inikezele nangekwizakhiwo ezo bezisetyenzwa, **ube nomsebenzi wenziwe wagqitywa kwaye wenziwe ngocoselelo nokwimeko egqibeleleyo** ngaphandle nangaphakathi.
14. IKontraka kufuneka ilungise izinto eziphosakeleyo okanye iziphene **kwisithuba esiphakathi kwexesha elimiselwe liSebe** ukugqibezela loo misebenzi. Eli Sebe linelungelo lokwenza ibango kwiKontraka lokuba ijongane neendleko ngazo naziphi na izinto ezithe zonakala ngenxa yokusilela kweKontraka ukulungisa ezo ziphene.
15. Isixa-mali ekubhekiselelwa **kuso njengemali egciniweyo iya kugcinwa kuyo nayiphi na inkqubo yentlawulo**.
16. Izinto ezibalelwa ukuba **ziziphene** zeKontraka kuxa:
 - (a) isilele ukuqala umsebenzi ngexesha ekufuneka ngalo;
 - (b) isilele ukuqhuba ngoMsebenzi ngenxa yokungabikho kwenkathalo okanye ukuwugqiba umsebenzi kwisithuba ekuvunyelwene ngaso okanye kwixesha elongeziweyo, okanye;
 - (c) xa iyeka, iwushiya okanye irhoxa ukuSebenza ngaphambi kokuba igqibe ukwakha; okanye
 - (d) isilele ukuhlangabezana nawo nawuphi na umqathango weSivumelwano okanye nayiphi na imiyalelo kunye ne/okanye uMyalelo oBhaliweyo

okhutshwa ngokwesi Sivumelwano.

Xa iKontraka yenze imposiso, iSebe liya kuthi ke ngoko-

- (i) **Iisirhoxise** iSivumelwano lize lenze esinye isivumelwano nekontraka eyenye okanye lenze ikontraka ngokwenza itenda kungenjalo kunye nayo nayiphi na enye ikontraka nokuba ziikontraka ukube ibe zizo ezigqibezela umsebenzi lowo kungenjalo nayo nayiphi na enye indawo eyinxalenye yomsebenzi, phantsi kwemeko ezinjalo naxa iSebe libone ukuba kufanekile ukuba lenjenjalo; kunye ne/okanye
- (ii) linike elo qela lamadoda kunye ne/okanye lithengise izixhobo xa libona kufanelekile ukwenjenjalo iSebe ukuze kugqityezelwe umsebenzi.

AMALUNGELO

1. Akukho bango liya kwenziwa ngaso nasiphi na isongezelelo okanye naluphi na uGuqu-guquko oluya kunyamezelwa ngaphandle kokuba uMmeli/iQumrhu liyalele ukuba kwenziwe isongezelelo okanye kubekho uGuqu-guquko kwintlawulo mayibe ibhaliwe. Inkcaso, imibuzo namabango ngokubhekiselele kuMyalelo oBhaliweyo iya kwamkelwa kuphela xa ithunyelwa ngembalelwano kuMmeli/iQumrhu kwisithuba esiphakathi **kweentsuku ezingamashumi amabini ananye** emva kokuba uthunyelwe lo myalelo.
2. Ixesha lesivumelwano elikhankanye kumaxwebhu okwenza itenda liqala ngomhla efunyenwe ngawo **ileta yolwamkelo** yetenda nebandakanya yonke imithetho kwanexesha elizithatha ngawo iiholide iqumrhu labokhi.
3. Isiza esi kufuneka sinikezelwe kwiKontraka kwisithuba seentsuku **ezilishumi elinesine** emva kokuba iqulunqiwe imigaqo yetendarisho ephathelele kummeli kwanokungeniswa kwengxelo ekuthiwa yiBills of Quantities, xa ikho imfuneko.
4. IKontraka kufaneleke ukuba yazise iSebe ngembalelwano **kwisithuba esiphakathi kweentsuku ezingamashumi mabini ananye** malunga nolibaziseko oluye lwaphambuka kwimimiselo yesivumelwano noluya kugqibela ngokuba kwandiswe ixesha kwisivumelwano sichazwe nesizathu solu libaziseko kwanexesha ekucelwa ukuba landiswe.
5. Kuya kukhutshwa **iSiqinisekiso sokuSebenza esiPhambili** xa ikontraka inika ingxelo kuMmeli/iQumrhu inikezela nezakhiwo ezigqibekileyo emva kokuba ekhutshiwe unobambiso
6. ISiqinisekiso sokuSebenza esiPhambili **siya kukhutshwa emva kweenyanga ezintathu ukususela ngomhla wokukhutshwa kweSiqinisekiso sokuSebenza esiPhambili** ngaphandle kokuba iziphene zenzeke ngeli xesha lokusebenza ziye zalungiswa emva kweloo xesha leenyanga ezintathu
7. IKontraka kufuneka **ibe khona kwiSiza eso** xa kuthathwa amanqaku kunye nemilinganiselo kusenziwa iziqinisekiso zokuhlulwa kwanokulungiswa kwentlawulo yokugqibela.
 - (a) IKontraka imele ukuba ifumane **intlawulo ekhutshwa ngeenyanga ezintathu**, ekufuneka isekwe ngokwenziwa kweziqinisekiso zokuhlulwa ezikhutshwe nguMmeli/iQumrhu. Izixa-mali ezimiselwe intlawulo kule nkqubo yeziqinisekiso kufuneka ikhutshwe ihlawulwe iKontraka kwisithuba esiphakathi **kweentsuku ezingamashumi amabini ananye** ukususela ngomhla wokukhutshwa kwesi siqinisekiso.
 - (b) Inkqubo nanye yokuhlulwa, ngokusekelezwe kwixabiso lomsebenzi, elithi ngokwembono yoMmeli/iQumrhu leSebe ibe iqhutshwe ngendlela eyanelisayo kwanexabiso leempahla ezikwesi siza.

8. Emva kokuba kugqityiwe ngesivumelwano, **iakhawunti yokugqibela** kufuneka ilungiswe liSebe eli. IKontraka kufuneka ithumele **ikopi** yeakhawunti yokugqibela. Ukuba ngaba iKontrakaithe yasilela kwisithuba seenyanga ezintathu ukusuka kumhla wokukhutshwa kweakhawunti yikugqibela, ukuchasa okuqalathwe kwiakhawunti yokugqibela, inika iinkuckacha ezizeleyo zenkcaso elolo hlobo, okanye ukubaithe yasilela ukutyikitya ikhawunti yokugqibela, iya kuthathwa njengeyamkelayo intlawulo yokugqibela. (Nceda ukhangele kwixesha elithathwayo)



PROVINSIALE ADMINISTRASIE: WES-KAAP DEPARTEMENT VAN VERVOER EN OPENBARE WERKE TAK OPENBARE WERKE

KONTRAKTEUR SE REGTE EN VERPLIGTINGE

TENDERS WORD TOEGEKEN DEUR 'N TENDERKOMITEE BESTAANDE UIT VIER OF MEER LEDE. TENDERS WORD AAN 'N PROSES VAN EVALUERING TEN OPSIGTE VAN VOLDOENING AAN SPESIFIKASIES EN INGEVOLGE DIE WET OP DIE RAAMWERK VIR VOORKEURVERKRYGINGSBELEID, 2000, ONDERWERP ALVORENS DIT AANBEVEEL WORD.

VERPLIGTINGE

1. Die Kontrakteur moet sy hoeveelheidslyste met pryse voorlê binne **een en twintig dae** na die datum van aanvaarding van sy tender.
2. Die Kontrakteur moet **alles verskaf wat nodig is** vir die behoorlike uitvoering van die Werke.
3. Tensy daar 'n klaarblyklike of ooglopende fout in 'n Skriftelike Bestelling is, moet die Kontrakteur te alle tye volgens sodanige **Skriftelike Bestelling** handel.
4. Die Kontrakteur of sy verteenwoordiger moet skriftelik geïdentifiseer word en moet **deurlopend op die perseel wees**.
5. Die Kontrakteur moet slegs mense wat **doeltreffend** en van goeie karakter is, op Departementeïe persele in diens neem.
6. Die Kontrakteur moet op versoek **bewys** verskaf dat materiaal wat gebruik is en werk wat gedoen is, in ooreenstemming is met die spesifikasies soos in die Kontrak beskryf.
7. Die Kontrakteur moet gedurende die geldigheidsduur van die Kontrak voldoen aan die bepalings van enige wet van die Parlement en met die **regulasies en verordeninge van plaaslike of ander owerhede** rakende die Werke.
8. Die Kontrakteur is verantwoordelik vir die **uitsit van die Werke** en moet enige fout in die werk wat daaruit voortspruit, op eie koste regstel.
9. Die Kontrakteur moet **behoorlik kennis gee** wanneer 'n deel van die Werke met grond of enige ander materiaal bedek gaan word.

die Werke deur enige oorsaak hoegenaamd gedurende die konstruksie van die Werke as gevolg van enige handeling of nalatigheid.

11. Die kontrakteur is **aanspreeklik vir enige aanspreeklikheid, verlies**, eis of verrigtinge voortspruitend uit persoonlike beserings aan of die dood van enige persoon gedurende die uitvoering van die Werke.
12. Die Kontrakteur is **aanspreeklik vir enige verlies, eis** of verrigtinge voortspruitend uit enige verlies van of skade aan enige roerende of onroerende of persoonlike eiendom gedurende die uitvoering van die Werke as gevolg van enige handeling of nalatigheid.
13. Ten einde vir die ontvangs van 'n Eerste Leweringertifikaat te kwalifiseer, moet die Kontrakteur die Werke en die perseel, wat binne en buite **volledig en in 'n skoon en ongeskonde toestand** moet wees, aan die Departementeïe Verteenwoordiger/Agent lewer.
14. Die Kontrakteur moet die gebreke en foute regstel **binne die tydperk wat die Departement** vir die voltooiing van die Werke bepaal het. Die Departement het die reg om enige skade wat gely is as gevolg van die Kontrakteur se versuim om die gebreke reg te stel, van die Kontrakteur te verhaal.
15. 'n Bedrag, wat hierna "retensiegeld" genoem word, **sal van elke vorderingsbetaling teruggehou word**.
16. Die Kontrakteur is in **verstek** as hy –
 - (a) versuim om met die Werke te begin soos vereis;
 - (b) versuim om met die nodige ywer met die Werke voort te gaan of om die Werke binne die kontraktydperk of enige verlenging daarvan te voltooi;
 - (c) die Werke stop, laat vaar of opskort voor voltooiing daarvan;
 - (d) versuim om te voldoen aan enige van die bepalings in die Kontrak uiteengesit; of
 - (e) weier of nalaat om streng te voldoen aan enige van die bepalings van hierdie Kontrak of enige instruksies en/of Skriftelike Bestelling wat kragtens die Kontrak gegee is.

Wanneer die Kontrakteur in verstek is, kan die Departement –

- (i) die Kontrak **opsê** en 'n nuwe kontrak of kontrakte met enige ander kontrakteur of kontrakteurs sluit deur tenders te vra of op 'n ander wyse vir die voltooiing van die Werke of enige deel daarvan, op sodanige tye en bepalings as wat die Departement goeiovind; en/of
- (ii) soveel mense verskaf en/of sodanige materiaal aankoop as wat die Departement goeiovind om die Werke te voltooi.

REGTE

1. Geen eis vir enige byvoeging of vir enige verandering sal oorweeg word nie tensy die Verteenwoordiger/Agent sodanige byvoeging of verandering skriftelik gelas het. Besware, navrae en eise met betrekking tot Skriftelike Bestellings sal oorweeg word slegs indien dit skriftelik by die Verteenwoordiger/Agent ingedien word **binne een en twintig dae** na die datum van die Skriftelike Bestelling.
2. Die kontraktydperk wat in die tenderdokumente genoem word, begin op die datum van die **brief van aanvaarding** van die tender en sluit alle statutêre en bounywerheidsvakansiedae in.
3. Die perseel moet aan die Kontrakteur oorhandig word binne **veertien dae** nadat hy voldoen het aan die tendervoorwaardes rakende waarborge en

die voorlegging van hoeveelheidslyste met pryse, indien van toepassing.

4. Die Kontrakteur is daarop geregtig om die Departement **binne een en twintig dae** skriftelik in kennis te stel van die oorsaak van enige vertraging wat buite die beheer van die Kontrakteur is en wat kan lei tot 'n verlenging van die kontraktydperk, met vermelding van die oorsaak van die vertraging en die tydperk van verlenging wat versoek word.
5. Die Verteenwoordiger/Agent sal 'n **Eerste Leweringertifikaat** uitreik wanneer die Kontrakteur die Werke en die perseel, wat volledig moet wees, aan die Verteenwoordiger/Agent lewer, waarna die waarborg afgelos sal word.
6. Die Finale Leweringertifikaat sal uitgereik word **na drie maande na die datum van die Eerste Leweringertifikaat**, mits die gebreke wat gedurende hierdie tydperk voorgekom het, reggestel word na sodanige tydperk van **drie maande**.
7. Die Kontrakteur moet op die perseel teenwoordig wees wanneer notas en metings gedoen word vir die opstel van sertifikate vir vorderingsbetalings en vir die opstel van die finale rekening.
 - (a) Die Kontrakteur is daarop geregtig om 'n **maandelikse vorderingsbetaling** te ontvang, wat gebaseer moet wees op 'n vorderingsbetalingsertifikaat wat deur die Verteenwoordiger/Agent uitgereik is. Die bedrag wat in sodanige vorderingsbetalingsertifikaat vermeld word, moet aan die Kontrakteur verskuldig en betaalbaar wees **binne een en twintig dae** na die datum van sodanige sertifikaat.
 - (b) Elke vorderingsbetaling is gebaseer op die waarde van die werk wat, na die mening van die Verteenwoordiger/Agent, bevredigend uitgevoer is en op die waarde van materiaal op die perseel.
8. Na voltooiing van die Kontrak moet 'n **finale rekening** deur die Departement opgestel word. Die Kontrakteur moet van 'n **afskrif** van die finale rekening voorsien word. Indien die Kontrakteur versuim om binne drie maande na die datum van uitreiking van die finale rekening teen die inhoud van die finale rekening beswaar aan te teken met vermelding van volledige besonderhede van sodanige beswaar, of versuim om die finale rekening te teken, sal hy geag word die finale rekening te aanvaar het. (Kyk asb die retensietydperk.)

