

**TERMS OF REFERENCE FOR MOVABLE GOVERNMENT
PROPERTY (OFFICE FURNITURE) AUCTIONEERING SERVICES
SCM HEAD OFFICE: MOVABLE ASSET MANAGEMENT**

DATE: 24 AUGUST 2022

STATE UNDER PARTICULARS OF BID AGAINST EACH REQUIREMENT COMPLY / DO NOT COMPLY	GENERAL: REQUIREMENT OF THE SPECIFICATION	
1.	The Movable Assets Directorate Head Office requires a service provider to render professional auctioneering services. This will require physical auctions and/or online auctions situated at the SAPS Pretoria Auction Centre at 250 Bessmer street (Corner Bessmer and Staal Streets) Pretoria West Industrial. Provide future auctioneering services as and when required by the Department of Public works and Infrastructure (DPWI) Head Office and Pretoria Regional Office.	2.
2.	In the event of a physical auctions the premises as arranged and agreed upon with the Director Movable Asset Management will be utilised.	3.
3.	The service of the auctioneer will be utilized for a period of a year/12 months on an as and when required basis.	4.
4.	The auctioneer must quote for a percentage seller's commission only.	4.1
4.1	The auctioneer is not allowed to claim a percentage buyer's commission.	5.
5.	The auctioneer must comply with the Second Had Goods Act, No. 6 of 2009.	5.1
5.1	The Auctioneer needs to ensure compliance to the National Consumer Protection Act.	5.2
5.2	The auctioneer shall be responsible for the remittance of VAT to the South African Revenue Services, where applicable.	5.3
5.3	The DPWI reserves the right to withdraw from an auction sale at any time should this be deemed necessary.	5.4
5.4	It is the prerogative of the Auctioneer on whether to use a physical or online or both methods of auction. This arrangement will be communicated with the Department.	5.5
5.5	The Auctioneer will be liable for any loss or damage to the property of the State while under the Auctioneer control. The Auctioneer will be required to have comprehensive liability cover in place at all times during the contract.	5.6
5.6	There will be no minimum quantities, disposals will be on a need basis and instituted by the Department.	

	<p>BIDDERS MUST HAVE IN-HOUSE VALUATORS OR ASSESSORS WITH RELEVANT EDUCATIONAL AND OR INDUSTRY EXPERTISE. PROOF OF RELEVANT QUALIFICATIONS OF AUCTIONEERS, VALUATORS OR ASSESSORS MUST BE SUBMITTED WITH THE BID DOCUMENTS. FAILURE TO COMPLY WILL INVALIDATE THE BID.</p>	6.
	<p>The bidder must display professional skills to demonstrate that his/her company has the capacity and capability to render auctioneering services to the best advantage of the DPWI.</p>	7.
	<p>ALL BIDDERS MUST BE IN POSSESSION OF A LICENCE ISSUED BY A PROFESSIONAL BODY SUCH AS SAIA (SOUTH AFRICAN INSTITUTE OF AUCTIONEERS) AS REQUIRED BY THE PROVISIONS OF SUB-REGULATION 18(4) OF THE CPA ACT. PROOF THEREOF MUST BE SUBMITTED WITH THE BID DOCUMENTS, FAILURE TO COMPLY WILL INVALIDATE THE BID.</p>	8.
<p>8.1</p>	<p>All bidders must adhere to Section 45(1-6) of the Consumer Protection Act, no. 68 of 2008 and the gazetted Regulations thereof. An extract of section 45 of the CPA appears hereunder:</p>	8.1
	<p>45:</p> <p>1) In this section, "auction" includes a sale in execution of or pursuant to a court order to the extent that the order contemplates that the sale is to be conducted by an auction.</p> <p>2) When goods are put up for sale but auction in lots, each lot is unless there is evidence to the contrary, regarded to be the subject of a separate transaction.</p> <p>3) A sale by auction is complete when the auctioneer announces its completion by the fall of the hammer, or in any other customary manner, and until that announcement is made, a bid may be retracted.</p> <p>4) Notice must be given in advance that a sale by auction is subject to -</p> <p>a) A reserved or upset price; or</p> <p>b) A right to bid by or on behalf of the owner or auctioneer, in which case the owner or auctioneer, or anyone person on behalf of the owner or auctioneer, as the case may be, may bid at the auction.</p> <p>5) Unless notice is given in advance that a sale by auction is subject to a right to bid by or on behalf of the owner or auctioneer-</p> <p>a) The owner or auctioneer must not bid or employ any person of bid at the sale;</p> <p>b) The auctioneer must not knowingly accept any bid from a person contemplated in paragraph (a); and</p> <p>c) The consumer may approach a court to declare the transaction fraudulent, if this subsection has been violated.</p>	

9.	PERFORMANCE SECURITY	
9.1	The auction shall be conducted at the time and place indicated by the DPWI in consultation with the auctioneer.	
9.2	On the day of the auction the appointed auctioneer shall be at the auction site at least (2) two hours before the commencement of the auction to register prospective buyers.	
9.3	The estimated income of the Auction shall be determined by the Director Movable Assets or his/her delegate and the Auctioneer.	
9.4	Property to be sold may be viewed by the public during such times and dates as specified in the advertisement of the auction at least <u>one day</u> before the sale. No viewing will be allowed on the day of the auction.	
9.5	All Auctions shall be conducted in English and must be clearly understandable by all registered bidders and DPWI officials administering and monitoring the auction. Only the conditions of sale as agreed with DPWI must be announced and no other contradictory conditions must be announced.	
9.6	All property must be sold by the auctioneer without a duty to repair (as is/voetstoot).	
9.7	A letter of good standing from the bank that the contractor will be able to settle the total proceeds for EACH auction must be produced.	
9.8	All auctions and transactions shall be conducted in the RSA currency.	
9.9	It is the bidder's responsibility to ensure safe custody of the money gathered from each auction as well as the transportation of such money.	
9.10	The successful auctioneer shall be expected to transfer the total amount of the auction sales less his commission and advertisement cost to the Departmental account, within Five (5) days after the auction. Proof of payment must be submitted to the Department.	
10.	REQUIREMENTS PRIOR TO AUCTION	
10.1	The bidder must develop and present a project plan with time frames for each auction before the disposal date is approved.	
10.2	The auctioneer will be required to, in consultation with the Department determine a date of the auction, whether physical and/or online.	
10.3	The auctioneer will be required to arrange the items into manageable lots for auction. List of items in each lot must be provided to the Department prior to the auction.	
10.4	All lots will be inspected and items listed/recorded by the auctioneer in the presence of a representative of the Department.	
10.5	The auctioneer will in consultation with the Department determine the reserve values for each lot/items, based on the market value as provided by the contractor and condition of the property.	
6)	The Minister may prescribe requirements to be complied with by an auctioneer, or different categories of auctioneer, in respect of – a) The conduct of an auction; b) The records to be maintained with respect to property placed for an auction; c) The sale of any such property by auction.	

10.6	The methodology used and the recommended reserve prices are to be presented to DPWI per individual Lot to be auctioned. This should be done at least 3 days prior to the auction date.
10.7	The auctioneer will need to ensure that all auctions are advertised at least two weeks prior to the auction taking place through at least one local media within the geographical area where the auction will take place.
10.9	The auctioneer shall submit a final vending roll to the Department at least one day before the auction.
10.10	It will be the responsibility of the contractor to ensure the registration of prospective buyers, a refundable deposit will be allowed for this process.
11.	REQUIREMENTS DURING THE AUCTION
11.1	The auctioneer must ensure that 2 or more competent administration staff are present at all auctions at their own cost.
11.2	The auctioneer will have to provide all equipment and consumables required to conduct the auction, including a P A system where required.
11.3	The auctioneer is responsible for obtaining payment from the purchasers in respect of each lot/item sold.
11.4	The auctioneer shall make provision for the buyers to pay at any time during the auction, without interrupting the auction.
11.5	For any auction taking place on government premises and for security purposes no cash should be accepted as payment for any lot or registration.
11.6	The auctioneer is responsible to make a digital video or voice recording of the auction and hand over the video or voice recording to the Department after the finalization of the auction. This will assist with clearing any disputes that may occur during/after an auction as well as for audit purposes.
11.7	The auctioneer is responsible for the provision of security personnel on day of viewing and auction day.
11.8	The auctioneer is responsible to ensure that buyers collect purchased property at the Auction Centre and provide their own labour to load and remove property within three days subsequent the auction.
11.9	The auctioneer must ensure that the Auction Centre is cleared within five days subsequent the auction.
11.10	The auctioneer or his representative MAY bid on an auction based on the following conditions: <ul style="list-style-type: none"> • He / She is registered as a buyer. • An indication MUST be given to all other buyers that he is bidding on a particular lot. • The auctioneer shall not be part of party to a "Ring". Should any active association with a "Ring" be proved to the satisfaction of the State, the contract with the auctioneer may be cancelled with immediate effect.
11.11	In the event of a dispute between a prospective buyer and the auctioneer or between buyers the Auctioneer and the representative of the Department must resolve the dispute on the spot or the DPWI

	representative has the right to withdraw articles for which no suitable prices are obtained, at his/ her discretion.
11.12	On the day of the auction the auctioneer will ensure that only the registered buyer and one (1) assistant be allowed to enter the auction center to ensure compliance to the Health and Safety Legislation and to limit the risks of theft and unauthorized movement of property.
12.	REQUIREMENTS AFTER THE AUCTION
12.1	The net proceed of each auction shall be paid to the DPWI within forty eight (48) hours and or not later than seven (7) days after each auction, by means of a EFT payment. The value of the payment shall be the gross amount realized from the auction less commission (VAT included by the percentage commissioner as approved) and advertising costs as determined.
12.2	After the sale, the auctioneer shall take responsibility of all lots sold during the auction, such as the collection of property.
12.3	The risk in respect of goods sold, passes to the buyer as soon as his bid has been accepted and the seller accepts no liability whatsoever in respect thereof.
12.4	A full reconciliation must be done immediately after the auction by the auctioneer and the representative from the Department.
13.	REPORTING
13.1	The DPWI auction list/catalogue shall be supplemented by the auctioneer with the following information:
13.1.1	Names and addresses of purchasers.
13.1.2	The amount realized from each lot.
13.1.3	The gross amount realized from the auction.
13.1.4	The actual expenditure on advertisements.
13.2	The auctioneer shall prepare and submit a detailed Auction Report not later than fourteen days after the completion of an auction. The following minimum information should be contained in the report. a) Name of buyer; b) Address of Buyer; c) Contact numbers of Buyer; d) Description of item purchased; e) Price of item; f) Lot number; g) List of items in the specific lot h) Any other relevant information as deemed fit by the Contractor as required by the Department.
13.3	The right is reserved by the DPWI to cancel the auction at any time or as determined by DPWI e.g. DPWI donations etc. in the event thereof, advertising expenses already incurred by the auctioneer, but not exceeding the amount determined by the DPWI will be refunded upon submission of documentary proof except in cases where the sale is stopped as a result of wrongful action by the auctioneer.
13.4	The auctioneer shall ensure all prospective buyers are registered by the auctioneer for that specific auction. Where applicable, registration shall occur after payment of a registration fee, determined by the DPWI in co-operation with the auctioneer.

13.5	The auction will be considered as complete after the last bid has been knocked down.
13.6	Where a buyer bids and wins the bid but does not pay the balance of the outstanding amount or the buyer withdraws his/her bid, his/her register/deposit fee will be forfeited to the DPWI.
13.7	The Auctioneer shall supply the DPWI with the list of registered bidders at least a day before the auctions.
13.8	The auctioneer shall only knock down a bid on a registered buyer. Purchased property will be released by the DPWI representative to the buyer only after payment has been decided and upon submission of an auctioneers invoice.
13.9	Property will only be allowed to be removed from the auction after the closing of the auction and must be removed from the premises after 24 hours and not more than three (3) days after payment is received.
13.10	In cases of unsatisfactory performance by contractor, the DPWI is entitled to take corrective steps for example to cancel the contact and make alternative arrangements for the rendering of the service. Should these steps result in a loss of income or additional cost to the DPWI, the DPWI is entitled to claim damages, retain the security or impose a penalty on the contractor in terms of the general conditions of the contract herewith attached.
14.	ADVERTISEMENTS:
14.1	The appointed auctioneer is responsible for advertising of auction. The format and size of the advertisement must be determined by Department in consultation with the auctioneer to minimise on cost involved.
14.2	The costs for the advertisements must be carried by the auctioneer and must be deducted from the proceeds based on the submission of the receipt. The DPWI shall receive the advantage of any discount allowed to the auctioneer on the printing of advertisements and the discount shall be indicated on the invoice. The costs of the advertisements as provided for in the contract may not exceed the maximum amount determined by the Department which will be communicated to the auctioneer.
14.3	Advertisements: a) Be in an legible format and size b) Contain a reference to the Consumer Protection Act Regulations, 2011, together with the URL of an operational internet site where a copy of these regulations may be obtained. c) State the date, place and time of the auction d) State the name of the auctioneer and the auction house, if any, and if registration or licensing of auctioneers or auction houses after the commencement of Consumer protection Act Regulations, 2011, becomes mandatory, such registration or licensing number, e) State where the rules of auction can be obtained f) State the particulars of the goods offered on auction g) If applicable, that the auction will be held over a number of days

	<p>h) State, if applicable, the sale by auction is subject to;</p> <ol style="list-style-type: none"> i. A reserved or upset price; or ii. A right to bid by or on behalf of the owner or auctioneer, in which case the owner or auctioneer, as the case may be, any bid at the auction; and iii. Contain a reminder that all prospective bidders must register as such prior to making bids during the auction and that such registration requires proof of identity and of residence; iv. Person responsible for enquires. <p>i) Advertisements must be placed at least 14 days prior to the auction in order to afford interested persons, the opportunity to attend the auction.</p>	
14.4	<p>Advertisements must be placed at one national and one local newspaper.</p>	14.4
14.5	<p>Draft copies of the proposed advertisement MUST be submitted to the Department for approval and publication MUST be arranged in consultation with the Director or his/her.</p>	14.5
14.6	<p>Authority for the approval of expenditure on advertising must be given by the Department.</p>	14.6
14.7	<p>In order to standardize the management of Auctions, all advertisements are to reflect in the form of the information below and indicated in the following order: -</p>	14.7
14.7.1	<p>The phrase "Government Auction" MUST be written in large print at the top of the advertisement and the name and telephone number of the auctioneer at the bottom in small print and other relevant details/information.</p>	14.7.1
14.7.2	<p>All auctions are to be advertised as a Government auction.</p>	14.7.2
14.7.3	<p>Venue.</p>	14.7.3
14.7.4	<p>Date.</p>	14.7.4
14.7.5	<p>Time.</p>	14.7.5
14.7.6	<p>Description of goods to be sold.</p>	14.7.6
14.7.7	<p>Viewing: Date and Time</p>	14.7.7
14.7.8	<p>Special conditions applicable to the sale e.g. Whether a deposit will be levied or not.</p>	14.7.8
15.	<p>ENQUIRIES</p>	15.
15.1	<p>The Department will determine who may be contacted i.e. an official from the DPWI, the Auctioneer or both.</p>	15.1
15.2	<p>The following advertisement sizes 10 x 12 cm is recommended in order to achieve uniformity.</p>	15.2
15.3	<p>The advert must reflect the DPWI logo as the primary logo.</p>	15.3
15.4	<p>The amount to be spent on advertising should be based on the estimated gross proceeds of the auction sale, and will be approved by the Chairperson of the Auction Committee or his/her delegate. The amount may not exceed R 30 000.00 (Thirty Thousand Rand, Alone).</p>	15.4
15.5	<p>State advertisements must not serve as marketing instruments for auctioneers.</p>	15.5

SIGNATURE OF BIDDER

DATE:

15.6	Should more than one auction be arranged by the DPWI in the same province within a short period of time, the expenditure on advertising must be consolidated launching one advertising campaign which covers the entire period.
16.	OTHER REQUIREMENTS:
16.1	All bidders must comply with the Auction Industry Code.
17.	SUPPLIER DUE DILIGENCE:
17.1	The state reserves the right to conduct supplier due diligence prior to final award of the contract or at any time during the contract period. This may include site visits.