



energy

Department:
Energy
REPUBLIC OF SOUTH AFRICA

TERMS OF REFERENCE FOR THE DEVELOPMENT OF THE 3RD EDITION OF THE ENVIRONMENTAL MANAGEMENT PLAN (EMP) FOR THE DEPARTMENT OF ENERGY (DOE) AND ITS STATE OWNED COMPANIES (SOCs) AND ENTITIES (SOEs FOR A PERIOD OF FIVE (5) MONTHS

1. INTRODUCTION

- 1.1 In terms of Chapter 3 of the National Environmental Management Act (NEMA), 1998, the Department of Energy (DoE) falls within the ambit of the Schedule 2 departments. All Schedule 2 departments are required to prepare an Environmental Management Plan since it exercises functions that include the management of the environment.
- 1.2 In 2010, as part of the law reform process, the environmental sector proposed the amendment of the reporting cycle of Environmental Implementation Plans (EIPs) and/or Environmental Management Plans (EMPs) as stipulated in section 11, subsections 1 and 2, of the NEMA from four (4) to five (5) years to align the cycle with the Medium Term Expenditure Framework (MTEF) period which runs for a term of five years. The amendment is part of the National Environmental Management Laws Amendment (NEMLA) Bill. To this effect, the Department of Environmental Affairs (DEA) informed all NEMA Schedules 1 and 2 provincial and national departments to align the lifespan of the 3rd generations of EIPs/EMPs with the aforementioned proposed five-year cycle of reporting.
- 1.3 All the departments are expected to develop an EIPs and/or EMPs that would also provide their respective State Owned Companies and Entities with a high level framework in executing their functions while adhering to the protection of the environment. With respect to this, the DoE has 2 State Owned

Companies: Central Energy Fund (SOC) Pty Ltd & the South African Nuclear Energy Corporation (NECSA) and 4 State Owned Entities: National Nuclear Regulation (NNR), The Petroleum, Oil and Gas Corporation of South Africa (PetroSA), South African National Energy Development Institute (SANEDI), and National Energy Regulator of South Africa (NERSA) whose main role is to provide the energy related services in support of the department's mandate through funded and non-funded statutory bodies and organisations. The State Owned Companies (SOCs) and Entities (SOEs) also serve to enhance the department's objectives through policies and directives, promoting its legislative mandate and leading to the creation of an environment conducive to investment and the improvement of the quality of life for South Africans.

- 1.4 The Department of Energy is looking for a service provider to develop a departmental Environmental Management Plan in accordance with the amendments as contained in chapter 3 of NEMA taking into consideration the life span of other national prescripts, strategies, plans and accords.

2. BACKGROUND

- 2.1 On the 10th of May 2009, the President of the Republic of South Africa, Mr Jacob Zuma announced the split of the Department of Minerals and Energy into two departments i.e. the Department of Mineral Resources and Department of Energy respectively.
- 2.2 Prior to the split, the then Department of Minerals and Energy (DME) published the 1st and 2nd editions of EMP in the Government Gazettes No 22080 and 31188 of the 23th February 2001 and July 2008 respectively. Following the split, the 2009 the DoE's EMP annual compliance report was based on the then DME 2nd edition which lapsed at the end of March 2012. The DoE has to comply with the NEMA prescripts by developing the 3rd edition of EMP in line with the amendments (refer to Addendum A: DEA letter and Guidelines) and subsequently report to the Sub-committee on EIPs/EMPs.

- 2.3 The DoE could not develop the 3rd edition following the lapsing of the 2nd edition under the then DME, due to the amendment of NEMA, i.e. National Environmental Management Laws Amendment Bill (NEMLAB) on chapter 3 and 4.
- 2.4 The 3rd EMP edition would be an overarching implementation tool by the DoE and its Companies and Entities to give guidance on environmental protection in with the National Environmental Management Act. The EMP will guide the Department to implement and monitor its projects and programmes whilst providing a high level framework for its companies and entities to safeguard environmental protection in respond to economic growth and ensuring sustainable development.
- 2.5 The DoE monitors the implementation of the EMP and report its performance through the development of EMP annual compliance report to the Department of Environmental Affairs also governed by Chapter 3 of NEMA. The SOCs and SOEs will report their performance to the requirements of the EMP through their normal quarterly reports to the Minister of Energy.

3. PURPOSE, OBJECTIVE, SCOPE AND OUTCOME OF THE EMP DEVELOPMENT

3.1 Purpose

- 3.1.1 The purpose for developing an Environmental Management Plans is provided for in section 12 of NEMA, as follows:
- (a) Co-ordinate and harmonize the environmental policies, plans, programmes and decisions of the various national departments that exercise functions that may affect the environment or are entrusted with powers and duties aimed at the achievement, promotion, and protection of a sustainable environment, and of provincial and local spheres of government, in order to minimize the duplication of procedures and functions;
 - (b) Promote consistency in the exercise of functions that may affect the environment;
 - (c) Give effect to the principle of co-operative government in chapter 3 of the Constitution;
 - (d) Secure the protection of the environment across the country as a whole;

- (e) Prevent unreasonable actions by provinces in respect of the environment that are prejudicial to the economic or health interests of other provinces or the country as a whole; and
- (f) Enable the Minister to monitor the achievement, promotion, and protection of a sustainable environment.
- (g) Therefore, in accordance with the Environmental Implementation Plans (EIPs) and/or Environmental Management Plans (EMPs) guidelines, the development of the 3rd edition is informed by the following tasks:
 - (i) Identification of significant issues to be addressed in the management plan;
 - (ii) Determination of specific guidelines for the management plan;
 - (iii) Determination of statutory, legal and other requirements to adhere to;
 - (iv) To prepare a framework for the monitoring of the identified issues; and
 - (v) To develop a monitoring strategy for the management and mitigation of identified issues.

3.2 Objective

3.2.1 The objective is to develop the third edition of the Environmental Management Plan for the Department of Energy and its Companies and Entities to ensure compliance with all relevant legal and statutory requirements, application of the best practice principle, monitoring and reporting of environmental performance.

3.3 Scope and Outcome

3.3.1 Scope

- (i) The scope of the project is in line with the required content of EMP as outlined in Section 14 of NEMA and specified under the purpose in section 3.1 (above) of this Terms of Reference. The service provider will also be responsible for stakeholder consultation and also serve as secretariat to the project.

3.3.2 Outcome

- (i) The successful service provider will be expected to deliver the following:
- (ii) A detailed inception report with respect to the Department's execution of its functions including a high level framework that provides guidance to its SOCs

and SOEs on protection of environment and that must be submitted within three (3) weeks of the signing of the contract.

- (iii) A comprehensive project report (2-3 weeks), which contains following:
 - (a) Policies, plans and programmes that may significantly affect the environment **(refer to Annexure C for further details)**.
 - (b) Policies, plans and programmes referred to in section 2 above that will comply with the principles set out in chapter 1 of NEMA as well as any national norms and standards as envisaged under section 146(2)(b)(i) of the Constitution and set out by the Minister, or by any other Minister, which have as their objective the achievement, promotion, and protection of the environment **(refer to Annexure C)**.
 - (c) Functions that are exercised so as to ensure compliance with relevant legislative provisions, including the principles set out in section 2 of NEMA, and any national norms and standards envisaged under section 146(2)(b)(i) of the Constitution and set out by the Minister, or by any other Minister, which have as their objective the achievement, promotion, and protection of the environment **(refer to Annexure C)**.
 - (d) Recommendations for the promotion of the objectives and plans for the description of the extent of compliance with the relevant departments' policies by other organs of state and persons.
 - (e) Arrangements for co-operation with other national departments and spheres of government, including any existing or proposed memoranda of understanding entered into, or delegation or assignment of powers to other organs of state, with a bearing on environmental management **(refer to Annexure C)**.
 - (f) Proposals for the promotion of the objectives and plans for the implementation of the procedures and regulations referred to in Chapter 5 of NEMA **(refer to Annexure C)**.

4. DURATION OF THE PROJECT

- 4.1 The duration of the project will be five (5) months after signing of the service level agreement with the successful service provider.

5. PROJECT PLAN

- 5.1 The service provider is required to provide a detailed proposed Project Plan indicating:
 - 5.1.1 Intermediate and final outputs and identified timeframes/milestones;
 - 5.1.2 A clear research methodology and approach must be indicated to the proposal. The methodology must outline how the planned work will be carried out and should be according to each phase or deliverable of compiling the technical report.
 - 5.1.3 Management of the project.
 - 5.1.4 Detailed work plans, including timetable for key deliverables.
 - 5.1.5 The service provider under consideration will be required to present their Project Execution Plan to the Department.

6. PAYMENT

- 6.1 Payment will be based on the achievement of pre-determined milestone and in line with the approved project proposal. The Department will not make an upfront payment to a successful service provider. Payment will only be made within 30 days in accordance to the delivery of services that will be agreed upon by both parties and upon receipt of an original invoice.

7. REPORTING

- 7.1 The service provider will submit monthly progress reports to the Programme Manager, within 4 working days after the end of each month for the duration of the project.
- 7.2 All resulting reports and data shall be delivered in two copies, i.e. in electronic format and in hard copies. All draft and final reports shall be printed in full colour. The reporting language is English. All documents and copyrights, including data and databases developed during the process, will remain the intellectual property of the DoE.

7.3 All drafts and final reports shall be submitted in full by the end of May 2014 to the Chief Director: Clean Energy. They must be edited, complete and presented in their final versions.

8. PLANNING AND CONCEPTUAL DESIGN

8.1 At the start of this phase the appointed service provider must conduct a comprehensive DoE internal (various branches) and external SOCs and SOEs planning sessions. This is to ensure that the EMP for the Department and its Companies and Entities regarding the project are adequately addressed. The service provider shall produce detailed descriptions for various activities and technical components identified in this bid terms of reference and during the planning sessions.

8.2 A detailed project/work plan that will spell out the task and activities related to the compilation of the 3rd edition of the DoE and its Companies and Entities, together with estimated budget requirements within specific timeframes should be produced by the successful service provider (i.e. a payment schedule). The time-schedule shall contain the dates for meetings, workshops, Project Management Team and Project Steering Committee meetings. It should describe how the service provider intends to reach the purpose of the assignment including contacting SOCs and SOEs to access the required information, etc. and detailed methodology.

8.3 A consultative process with all relevant stakeholders is vital for this project by making regular presentations on the progress to the Sub-committee on EIPs/EMPs through gathering and incorporate inputs from stakeholders. It must be noted that service provider shall amongst other duties perform secretariat functions for meetings and workshops that will be conducted for the entire project.

8.4 Production

8.4.1 A comprehensive 3rd edition Report (i.e. soft copy).

9. SOURCES OF INFORMATION

9.1 A diverse range of relevant information sources that can be utilised, include but not limited inter alia, the following:

- (a) The 2nd EMP Edition for the DME.
- (b) DoE EMP Compliance reports.
- (c) Existing and current DoE and all relevant departments' legislations.
- (d) Existing and current DoE, SOEs, and SOEs' Policies and Strategies (Annual Performance Plans).
- (e) National Development Plan.
- (f) National Acts such as the National Water Act, NEMA, Air Quality Management Act, National Waste Act, National Forest Act, Bill of Rights Act, National Climate Change Response Policy etc.

10. COMPANY EXPERIENCE

10.1 The service provider must have at least five (5) years 'experience in the field of Environmental Management, show a good understanding of the South African Energy Sector as a whole, including the understanding of policies, regulation the energy industry of South Africa. The service provider must have relevant experience of at least 5 years of having worked in the field. The expert team to undertake the proposed work need to have experience in the following areas:

- (a) Environmental legislations.
- (b) Environmental issues.
- (c) Environmental indicators.
- (d) Sustainable development.
- (e) Environmental reporting.
- (f) State of the environment reporting frameworks.
- (g) Energy issues and legislations.
- (h) Programmes and projects within the energy sector (e.g in the context of infrastructure development).
- (i) Ability to research and report writing skills.
- (j) Project Management Skills, and
- (k) Knowledge of other pieces of legislation, strategies and plans that have impact on both energy and environment.

10.2 Proof from three (3) contactable referees indicating that similar project/s was/were executed.

11. TEAM LEADER AND TEAM MEMBERS' EXPERIENCE

11.1 The Team Leader must have at least five (5) years' experience and individual Team Members must have at least three (3) years' experience. CV's of the Team Leader and Team Members must be attached to the technical proposal as proof. Details of the team leader and team member should indicate their designated responsibilities.

12. QUALIFICATION OF TEAM LEADER AND TEAM MEMBERS

12.1 Team Leaders and Project Members must have a Masters' Degree or at least an Honours Degree in Environmental Science, Natural Sciences and Energy or Developmental Studies.

12.2 Certified copies of the qualifications must be attached in the proposal.

13. EVALUATION METHODOLOGY

13.1 Cost

(a) The service provider will be requested to give a quote regarding the work to be undertaken for this project. A summary of the overall proposed charges for the services should be provided. The cost must be VAT inclusive and should be quoted in South African rand.

(b) Detailed costing should be aligned with the project activities and project phases.

(c) A breakdown of the charges to be applied to each of the task described above, including any reimbursable and miscellaneous expenses.

14. BROAD-BASED BLACK ECONOMIC EMPOWERMENT

14.1 Provisions of the Preferential Procurement Policy Framework Act (PPPFA) 2011 and its regulation will apply in terms of awarding points.

14.2 Bidders are required to submit original and valid B-BBEE Status Level Verification Certificates or certified copies thereof together with their bids, to substantiate their B-BBEE rating claims.

14.3 Bidders who do not submit their B-BBEE status level verification certificates or are non-compliant contributors to B-BBEE will not qualify for preference points for B-BBEE.

14.4 In the case of Exempted Micro Enterprises, the following documents MUST be submitted:

- (a) Verification agencies accredited by SANAS; and
- (b) Registered auditors approved by IRB

B-BBEE Status Level Contributor	Number of points (80/20 system)
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
Non Compliance contributor	0

15. BIDDERS WHO QUALIFY AS EME'S

- (a) Accounting officers as contemplated in the CCA; or
- (b) Verification agencies accredited by SANAS; or
- (c) Registered auditors (Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates).

16. EVALUATION CRITERIA

16.1 Bids will be evaluated on the 80/20 point system as outlined in the PPPFA of 2011.

16.2 The proposals will be evaluated in two phases:

Phase 1: Bidders will be evaluated based on functionality. The minimum threshold for functionality is 70 out of 100 points. Bidders who fail to meet the minimum threshold will be disqualified and will not be evaluated further for price and BBBEE points.

No	Criteria	Weight
1	<p>Company Experience</p> <ul style="list-style-type: none"> ❖ The service provider must have five (5) years' experience in the field of Environmental Management; have a good understanding of the South African Energy Sector as a whole, including the understanding of policies, regulation the energy industry of South Africa. Provide a letter to the DoE from the previous client/s for the environmental and energy work that was done. 	<p>10</p> <p>10</p>
2	<p>Team leader and team members' experience:</p> <ul style="list-style-type: none"> ❖ The Team Leader must have at least five (5) years' experience in the field of Environmental Management; have a good understanding of the South African Energy Sector as a whole, including the policies, regulation in the energy industry of South Africa. ❖ Individual team members must have at least three (3) years' experience in the field of Environmental Management; have a good understanding of the South African Energy Sector as a whole, including policies, regulation the energy industry of South Africa. CV's of the team leader and team members must be attached to the technical proposal as proof. 	<p>20</p> <p>10</p> <p>10</p>
3	<p>Qualifications</p> <ul style="list-style-type: none"> ❖ Team Leaders and Project Members must have a Masters Degree or at least a Bachelor's Degree in Environmental Science, Natural Sciences and Energy Studies. Certified copies of the qualifications must be attached in the proposal. Failure to attach, bidders will forfeit functionality points. 	<p>20</p> <p>20</p>
4	<p>Project Plan:</p>	<p>50</p>

❖ Intermediate and final outputs and identified timeframes/milestones;	20
❖ A clear research methodology must be indicated to the proposal. The methodology must outline how the planned work will be carried out and should be according to each phase or deliverable of compiling the technical report.	10
❖ Management of the project.	10
❖ Detailed work plans, including timetable for key deliverables.	10
Total	100

For the purpose of evaluating functionality, the following values will be applicable:

0	Very Poor	Do not meet the requirements
1	Poor	Will not be able to fulfil the requirements
2	Average	Will partially fulfil the requirements
3	Good	Will be able to fulfil the requirements
4	Very Good	Will be able to fulfil better in terms of the requirements adequately
5	Excellent	Will fulfil the requirements exceptionally

Phase 2: Bidders who complied with the minimum threshold for functionality, i.e. 70 out of 100 points will then be evaluated on the 80/20 point system as outlined in the PPPFA of 2011.

Price	80
B-BBEE status	20

17. GENERAL CONDITION

17.1 Acceptance Criteria

17.1.1 The Department of Energy reserves the right to accept any bid, in accordance with the DoE's Procurement Policy and Procedures; including the right to accept any bid if it is deemed that no proposal meets the requirements.

18. BRIEFING SESSION

- 18.1 A briefing session will be held at DoE offices Head Office (Matimba House, 192 Visagie streets or corner of Paul Kruger and Visagie streets) in November 2013, at 10H00.

19. FORMAT AND SUBMISSION OF PROPOSAL

- 19.1 All standards official bidding document forms (SBD) must be completed in all respects by bidders. Failure to comply will invalidate a bid. Bidders are requested to submit three (3) copies: one (1) original plus (2) copies of the proposals and bid documents.

20. CLOSING DATE

- 20.1 Proposals must be submitted on or before **November 2013** at 11H00 at the DoE offices, Head Office (Matimba House, 192 Corner Visagie and Paul Kruger Streets, Pretoria in the bid box marked Department of Energy). **No late bids will be accepted.**

21. ENQUIRIES

All technical enquiries to be directed to:

Mr Thebe Mamakoko

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E-mail: Thebe.Mamakoko@energy.gov.za

All bid enquiries to be directed to:

Ms Lebogang Mosuwe/ Ms Daisy Maraba

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