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**TERMS OF REFERENCE FOR THE APPOINTMENT OF THE TECHNICAL  
ADVISOR FOR THE DEVELOPMENT OF THE PETROLEUM AND LIQUID  
FUELS SECTOR CODES AND ALIGNMENT OF THE PETROLEUM AND  
LIQUID FUELS CHARTER TO THE B-BBEE ACT, 2003 (ACT NO. 53 OF  
2003) AS AMENDED AND CODES OF GOOD PRACTICE FOR THE  
PERIOD OF TEN (10) MONTHS.**

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## **1 BACKGROUND**

- 1.1. The purpose of these Terms of Reference (TOR's) is to provide a specification framework to appoint a Service Provider to assist the Department with the development of the Petroleum and Liquid Fuels Sector Codes and the alignment of the Petroleum and Liquid Fuels Charter ("LFC") to the Broad Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003) as amended ("B-BBEE Act, 2003") and Codes of Good Practice ("COGP").
- 1.2. The Department initiated the process of alignment of the LFC to the B-BBEE Act, 2003 and to ultimately develop a sector-specific Code of Good Practice to ensure compliance with the B-BBEE Act, 2003 as amended by Act 46/2013 and its Codes of Good Practice and the Statement 003: Amended guidelines for developing and Gazetting of sector codes ("Statement 003 Guideline").
- 1.3. From December 2016 up to date, an Interim Steering Committee ("ISC") for the alignment process has been established together with industry stakeholders.
  - 1.3.1. A Public Proclamation has been adopted by the ISC, which is on route for Ministerial approval, will be published in the Government Gazette during the 2017/18 financial year to inform the public of the Alignment and Sector Code development process, and to highlight the objectives and rationale of the process.

## **2 OBJECTIVES**

2.1. The objectives of acquiring the Service Provider are to assist the Department to:

2.1.1. Develop of the Petroleum and Liquid Fuels Sector Codes;

2.1.2. Align of the Petroleum and Liquid Fuels Charter (“LFC”) to the Broad Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003) as amended (“B-BBEE Act, 2003”) and Codes of Good Practice (“COGP”).

2.1.3. Consult the Petroleum and Liquid Fuels Sector stakeholders; and

2.1.4. Develop relevant sector codes and charters for gazetting.

## **3. SCOPE OF THE PROJECT**

3.1. The scope of work is limited to the alignment process undertaken for the Petroleum and Liquid Fuels and Gas Industry.

3.2 The above sectors are in terms of the B-BBEE Act required to have a B-BBEE sector specific scorecards and codes.

## **4. DELIVERABLES**

4.1. The appointed service provider will have to render the following deliverables:

4.1.1. Inception report with detailed project plan/work plan;

4.1.2. Advise on the process by which the scorecard(s) and charter(s) will be developed in line with section 12, 9(5) and 9(1) of the B-BBEE Act;

4.1.3. Present at all stakeholder engagements and consultations;

4.1.4. Develop draft sector codes and scorecards. The sector codes should among other issues respond to key measurement principles, definitions, elements, targets, weightings and timeframes where applicable;

4.1.5. Develop a draft aligned charters and scorecards after consultations per sectors;

4.1.6. Advise on stakeholders consultations and other related processes;

4.1.7. Provide Technical advice to the ISC for the duration of the alignment process;

4.1.8. Conduct workshops to enhance the Department’s internal capacity on the implementation, evaluation and monitoring of B-BBEE; and

4.1.9. Conduct workshops to enhance the capacity of the technical interpretation, verification and analysis of the aligned charter(s) and scorecard(s)

## **5. KEY COMPETENCIES OF THE COMPANY**

- 5.1. The appointed service provider to undertake this project should demonstrate the following key competencies:
  - 5.1.1. Clear knowledge and understanding of the B-BBEE Act, 2003 and 2013 Codes of Good Practice on B-BBEE and its policy framework;
  - 5.1.2. A good understanding of the Petroleum and Liquid Fuels sector;
  - 5.1.3. Proven 3-year record of accomplishment on alignment and development of charters with codes;
  - 5.1.4. Firm must have proven accomplishment of technical advice in the gazetting of charters and scorecards;
  - 5.1.5. Technical advising expertise in relation to B-BBEE steering committees.

## **6. PROJECT MANAGEMENT**

- 6.1. The Chief Directorate: Petroleum compliance Monitoring and Enforcement will be responsible for managing the service provider, and the project will consist of the DOE team.

## **7. FORMAT OF REQUEST FOR QUOTATION DOCUMENT**

- 7.1. Companies are required to submit proposals within 7 days.
- 7.2. Correspondence and documentation and oral communication exchange between parties shall be in English.

## **8. TERMS AND CONDITIONS**

- 8.1. No material or information derived from the provision of the services under the contract may be used for any purposes other than those of the Department of Energy, except where authorized in writing to do so. All information will be held strictly confidential. The successful service providers will be required to sign a confidentiality agreement with the Department of Energy.
- 8.2. Copyright of all documents and electronic aids, software programmes prepared or developed in terms of the appointment shall vest in the Department of Energy.

- 8.3. The Department reserves the right to withdraw this Terms of Reference without prior notice except where required by law, and without liability to compensate or reimburse any Service provider. Furthermore, if negotiations between the Department and the preferred service provider fail about the conclusion of a Service Level Agreement (SLA), the Department reserves its right not to appoint the preferred service provider without incurring any liability to compensate or reimburse the Preferred Service Provider.
- 8.4. Neither the Department, nor any of its respective, officers, or employees may make any representation or warranty, expressed or implied in this Terms of Reference document, and nothing contained herein is, or shall be relied upon as, a promise or representation, whether as to the past or the future.
- 8.5. The Department of Energy is not bound to accept any of the proposals submitted and reserves the right to call for best and final offers from shortlisted Service Provider before final selection.

## **9. REPORTING REQUIREMENT AND PROGRESS MEETINGS**

- 9.1. The appointed service provider will report progress made or any other matter relating to the Petroleum and Liquid Fuels Charter alignment and sector code development to the project team.
- 9.2. Meetings and reporting by the service provider to the project team will be held bi-monthly from the signing of the contract and at any time as requested by project manager.
- 9.3. The nomination and appointment of the project team shall be ratified by the Head of the Petroleum & Petroleum Products Regulation Branch.

## **10. PAYMENTS**

- 10.1. The Department will not make an upfront payment to a successful service provider. Payment will only be made in accordance to the delivery of service and aligned with the Service Level Agreement that will be agreed upon by both parties after signing of the contract and upon receipt of an original invoice.

## **11. COMPLETION DATE**

- 11.1. The duration of the project will be ten (10) months after signing of the contract and Service Level Agreement with the successful service provider.

## **12. TAX COMPLIANCE REQUIREMENTS**

- 12.1 The potential service provider/s must ensure compliance with their tax obligations.
- 12.2 The potential service provider/s are required to submit their unique personal identification number (pin) issued by SARS to enable the organ of state to view the taxpayer's profile and tax status.
- 12.3 Application for tax compliance status (TCS) or pin may also be made via e-filing. In order to use this provision, taxpayers will need to register with SARS as e-filers through the website [www.sars.gov.za](http://www.sars.gov.za).
- 12.4 The potential service provider/s may also submit a printed TCS together with the proposal.
- 12.5 In proposals where consortia / joint ventures / sub-contractors are involved, each party must submit a separate proof of TCS / pin / CSD number.
- 12.6 Where no TCS is available but the the potential service provider/s is registered on the central supplier database (CSD), a CSD number must be provided

## **13. CENTRAL SUPPLIER DATABASE**

- 13.1. The service provider is required to submit a summary report of their Central Supplier Database Registration together with the proposal documents before the closing date and time of the proposal.

## **14. CONFIDENTIALITY OF INFORMATION**

- 14.1. The names of all the members of the team must be disclosed to the Department of Energy. Any changes, replacements and / or additions should be submitted in writing to the Department of Energy.

## 15. EVALUATION METHODOLOGY

### 15.1. Cost

15.1.1 The service provider will be requested to provide a quote regarding the work to be undertaken for this project.

15.1.2 The total cost must be VAT inclusive and should be quoted in South African currency (i.e. Rands).

15.1.3 The service provider should provide the hourly rates as prescribed by the Department of Public Service and Administration (DPSA) and or the body regulating the profession of the consultants.

15.1.4 The service Provider should provide (S&T) rates that are aligned to the National Treasury instruction note as follows:

- (i) Hotel Accommodation – R1400 per night per person, including breakfast, dinner and parking
- (ii) Air travel must be restricted to economy class
- (iii) Claims for kilometres may not exceed the rates approved by the Automobile Association of SA.

### 15.2. Broad-Based Black Economic Empowerment

15.2.1. Provisions of the Preferential Procurement Policy Framework Act (PPPFA) 2017 and its regulation will apply in terms of awarding points.

15.2.2. Service Providers are required to submit original and valid B-BBEE Status Level Verification Certificates/Affidavits or certified copies thereof together with their proposals, to substantiate their B-BBEE rating claims.

15.2.3. Service Providers who do not submit their B-BBEE status level verification certificates/ affidavits or are non-compliant contributors to B-BBEE will not qualify for preference points for B-BBEE.

15.2.4. In a case of Exempted Micro Enterprise (EME), the latest Affidavit as per **the DTI** requirements must be submitted.

### 15.3. Pre-qualifying criteria

#### 15.3.1. An EME

- a) which is at least 51% owned by black people who are women; and
- b) which is at least a Level 2 B-BBEE Contributor;

#### 15.3.2. The table below depicts the B-BBEE status level of contribution:

<b>B-BBEE Status Level of Contributor</b>	<b>Number of points (80/20 system)</b>
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

### 15.4 Company Experience

15.4.1 Service providers should provide proof of at least five (5) years' experience in professional audit or verification of B-BBEE COGP, development of and alignment of sector charters and codes, B-BBEE Advisory and Consultation and understanding of the South African petroleum industry legislation and policies. This needs to be supported by proof from 3 contactable referees indicating that similar project(s) was / were executed successfully. Failure to submit the recommended references will result in forfeiting points.

## **15.5 Team leader and team members' experience**

15.5.1 Team Leader must have at least seven (7) years' experience sector codes development, B-BBEE Advisory and compliance.

15.5.2 Individual team members must have at least five (5) years' experience in B-BBEE Advisory and compliance.

## **15.6 Qualification**

15.6.1 The team leaders must have an undergraduate qualification and B-BBEE Management Development Programme.

15.6.2 Team members must have an undergraduate qualification in commerce, finance or economics and B-BBEE training.

15.6.3 CV's and certified copied of qualifications of the team leader and team members must be attached to the technical proposal as proof.

## **15.7 Project Plan**

15.7.1 Project plan with intermediate and final outputs and identified timeframes / milestones;

15.7.2 Proposed approach to deliver the project;

15.7.3 Management of the project.

## **16. EVALUATION CRITERIA**

16.1. Proposals will be evaluated on **80/20 principle** point system as outlined in the PPPFA of 2017



**THE PROPOSALS WILL BE EVALUATED IN TWO PHASES:**

**PHASE 1:** Service providers will be evaluated based on functionality. The minimum threshold for functionality is **80 out of 100 points**. Service providers who fail to meet minimum threshold will be disqualified and will not be evaluated further for price points.

**Please note that the below table will be informed by 12.4-12.6**

No	Criteria	Weights
1	<b>Company Experience</b>	<b>20</b>
	• Service providers should provide proof of at least five (5) years' experience in professional audit or verification of B-BBEE COGP, B-BBEE Advisory and Consultation; Proven 3-year record of accomplishment on alignment and development of charters with codes; Firm must have proven accomplishment of the gazetting charters and codes This needs to be supported by proof from 1 contactable referees indicating that similar project(s) was / were executed successfully.	10
	• Understanding the South African petroleum industry legislation and policies. • Failure to submit the recommended the reference will result in forfeiting points.	5 5

2	<p><b>Team Leader and Team Members</b></p> <ul style="list-style-type: none"> <li>• Team Leader must have tertiary qualification in commerce, finance or economics B-BBEE MDP qualification and at least seven (7) years' experience in the following areas: <ul style="list-style-type: none"> <li>○ Auditing, compliance, advisory and consulting and professional B-BBEE audit and verifications. CV's must be attached to the technical proposal as proof.</li> </ul> </li> <li>• Individual team members must have B-BBEE MDP and at least five (5) years' experience in the following areas: <ul style="list-style-type: none"> <li>○ Auditing, compliance, advisory and consulting and professional B-BBEE audit and verifications. CV's must be attached to the technical proposal as proof.</li> </ul> </li> </ul>	<b>30</b>
		15
4	<p><b>Project Plan:</b></p> <ul style="list-style-type: none"> <li>• Management of the project: Detailed Project Plan and Management should be attached;</li> <li>• Execution Plan and approach to deliver the mandate of the project;</li> <li>• Intermediate and final outputs and identified timeframes / milestones.</li> </ul>	<b>50</b>
		20
		15
		15
<b>Total</b>		<b>100</b>

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

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

**PHASE 2:**

<b>PRICE</b>	80
<b>B-BBEE</b>	20

## **17. FORMAT AND SUBMISSION OF THE PROPOSAL**

17.1 All the official standard submission forms must be completed in all respects by prospective service providers. Failure to comply will invalidate the proposal.

## **18. CLOSING DATE**

18.1 Proposals must be submitted on or before **18 July 2017 at 11H00**, Department of Energy, 192 Corner Visagie and Paul Kruger Streets, Pretoria in the proposal box marked Department of Energy. **No late proposals will be accepted.**

## **19 ENQUIRIES**

19.1 All technical enquiries to be directed in writing to:

Ms Rebotile Komane

Tel: 012- 406 7580

Email: [Rebotile.komane@energy.gov.za](mailto:Rebotile.komane@energy.gov.za)

19.2 All enquiries to be directed to:

Ms Rachel Moerane / Ms Keitumetse Pitse

Tel: 012- 406 7742 / 7742

Email: [Rachel.Moerane@energy.gov.za](mailto:Rachel.Moerane@energy.gov.za) / [Keitumetse.pitse@energy.gov.za](mailto:Keitumetse.pitse@energy.gov.za)